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# TEXAS REGISTER

*Volume 21, Number 42 June 7, 1996*

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*11th grade*

*Clear Creek High School, Clear Creek ISD*

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# PROPOSED RULES

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Before an agency may permanently adopt a new or amended section or repeal an existing section, a proposal detailing the action must be published in the *Texas Register* at least 30 days before action is taken. The 30-day time period gives interested persons an opportunity to review and make oral or written comments on the section. Also, in the case of substantive action, a public hearing must be granted if requested by at least 25 persons, a governmental subdivision or agency, or an association having at least 25 members.

**Symbology in proposed amendments.** New language added to an existing section is indicated by the use of **bold text**. [Brackets] indicate deletion of existing material within a section.

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## TITLE 25. HEALTH SERVICES

### Part I. Texas Department of Health

#### Chapter 313. Athletic Trainers

##### General Guidelines and Requirements

##### **25 TAC §§313.1, 313.2, 313.9, 313.13, 313.14, 313.15, 313.17**

The Advisory Board of Athletic Trainers (board) proposes amendments to §§313.1, 313.2, 313.9, 313.13, 313.14, 313.15, and 313.17 concerning the licensing and regulation of athletic trainers. Specifically, §§313.1, 313.2, 313.14, 313.15, and 313.17 are being amended to correct statutory references. Section 313.9(a) is being modified to delete the requirement that temporary license applicants must not have previously applied to take the licensure examination. Section 313.9(b) is being amended to clarify the time frame during which a temporary license is valid. Section 313.9(c) is being amended to provide for the issuance of a second temporary license based on documented hardship. Section 313.13(j) is being amended to grant continuing education credit to licensees who instruct or present educational programs.

Debbie Bradford, Program Director, has determined that for the first five-year period that the sections as proposed are in effect, there will be no fiscal implication for state or local governments as a result of enforcing or administering the sections as proposed.

Ms. Bradford also has determined that for each year of the first five years that these sections are in effect, the public benefit anticipated as a result of enforcing these sections will be to assure the appropriate regulation of athletic trainers and to continue to identify competent practitioners. There will be no fiscal implications for small businesses as a result of enforcing or administering the rules. There will be no cost to persons who may be required to comply with the sections as proposed. There will be no effect on local employment.

Comments on the proposed rules may be submitted to Debbie Bradford, Program Director, Advisory Board of Athletic Trainers, 1100 West 49th Street, Austin, Texas 78756-3183, (512)834-6615. Comments will be accepted for 30 days following publication of this proposal in the *Texas Register*.

The amendments are proposed under Texas Civil Statutes, Article 4512d, §5(a), which provides the Advisory Board of Athletic Trainers with the authority to adopt rules consistent with the Act which are necessary for the performance of its duties; under §5(b), which provides the board with the authority to establish requirements for continuing education for athletic trainers; and under §10(c), which provides the board with the authority to establish requirements for temporary license issuance.

The amendments affect Texas Civil Statutes, Article 4512d.

##### *§§313.1. Definitions.*

The following words and terms when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise:

##### **APA - The Administrative Procedure Act, Government Code, Chapter 2001.**

[APTRA - The Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a.]

##### *§§313.2. The Board's Operation.*

(a)-(d) (No change.)

(e) Meetings.

(1)-(2) (No change.)

(3) Meetings shall be announced and conducted under the provisions of the Open Meetings Act, **Government Code, Chapter 551** [Texas Civil Statutes, Article 6252-17].

(f)-(j) (No change.)

(k) Agendas.

(1) (No change.)

(2) The official agenda of a meeting shall be filed with the Secretary of State of the State of Texas in accordance with the Open Meetings Act, **Government Code, Chapter 551** [Texas Civil Statutes, Article 6252-17].

(l) (No change.)

(m) Official records.

(1) All public records of the board shall be open for inspection during regular office hours unless such records contain information excepted from disclosure under the Open Records Act, **Government Code, Chapter 552** [Texas Civil Statutes, Article 6252-17].

17a]; the Family Educational Rights and Privacy Act of 1974, 20 United States Code, §1232g; or other applicable law.

(2)-(3) (No change.)

(n) (No change.)

(o) Petition for adoption of a rule.

(1)-(2) (No change.)

(3) Consideration and disposition of the petition.

(A)-(D) (No change.)

(E) If the board initiates rule-making procedures [in accordance with the APTRA, §5], the version of the rule which the board proposes may differ from the version proposed by the petitioner.

(4) (No change.)

§§313.9. *Temporary License.*

(a) A temporary license may be issued to an individual who meets the educational and apprenticeship requirements of this chapter[, but who has not previously applied to take the examination].

(b) After receiving the completed application required by §313.4 of this title (relating to Application Requirements and Procedures) and the nonrefundable temporary license fee, the board shall issue a temporary license to an applicant meeting the requirements of this section. This license entitles an applicant to perform the activities of an athletic trainer until the results of the **first** examination **which the applicant is eligible to take** are released.

(c) A temporary license shall not be renewed , **but a second temporary license may be issued upon approval by the Administrative Services Committee on grounds of documented hardship.**

(d) (No change.)

§§313.13. *Continuing Education Requirements.*

(a)-(b) (No change.)

(c) Continuing education credit undertaken by a licensee for renewal shall be acceptable if the experience falls in one or more of the following categories:

(1) (No change.)

(2) clinical courses related to sports medicine; [or]

(3) in-service educational programs, training programs, institutes, seminars, workshops and conferences in sports medicine or athletic training; **or** [.]

**(4) instructing or presenting education programs or activities without compensation at an academic course, in-service educational programs, training programs, institutes, seminars, workshops and conferences in athletic training or sports medicine not to exceed five clock-hours each continuing education period.**

(d)-(i) (No change.)

(j) The continuing education committee may not grant continuing education credit to any licensee for:

(1)-(4) (No change.)

(5) activities which have been completed more than once during the continuing education period; **or**

(6) performance of duties that are routine job duties or requirements. [; or]

[(7) instructing or presenting continuing education programs or activities.]

(k) (No change.)

§§313.14. *Licensing of Persons with Criminal Backgrounds to be Athletic Trainers.*

(a) (No change.)

(b) Criminal convictions which directly relate to the occupation of athletic trainer.

(1) (No change.)

(2) In considering whether a criminal conviction directly relates to the occupation of an athletic trainer, the board shall consider:

(A) (No change.)

(B) the relationship of the crime to the purposes for requiring a license to be an athletic trainer. The following felonies and misdemeanors relate to the license of an athletic trainer because these criminal offenses indicate an inability or a tendency to be unable to perform as an athletic trainer:

(i)-(ii) (No change.)

(iii) a misdemeanor and/or felony under various titles of the Texas Penal Code:

(I)-(III) (No change.)

(IV) Title 10 concerning offenses against public health, safety, and morals; **and**

(V) Title 4 concerning offenses of attempting or conspiring to commit any offenses in this subsection. [; and]

[(VI) Insurance claim fraud under the Penal Code, §32.55.]

(iv) (No change.)

(C)-(D) (No change.)

(c) (No change.)

§§313.15. *Guidelines for Conduct.*

(a)-(b) (No change.)

(c) Professional representation and responsibilities.

(1)-(5) (No change.)

(6) A licensee shall comply with the provisions of the Texas Controlled Substances Act, [Texas Civil Statutes, Article 4476-15], and the Texas Dangerous Drug Act, **Health and Safety Code, Chapter 483** [Texas Civil Statutes, Article 4476-14], and any rules of the Board of Health or the Texas State Board of Pharmacy implementing those statutes.

(7)-(13) (No change.)

(d) (No change.)

(e) Sanctions. A licensee shall be subject to disciplinary action by the board if the licensee:

(1)-(2) (No change.)



(3) has an administrative penalty imposed by the attorney general's office under the Crime Victims Compensation Act, **Code of Criminal Procedure, Chapter 56, Subchapter B** [Texas Civil Statutes, Article 8309-1].

(f)-(g) (No change.)

§§313.17. *Formal Hearings.*

(a) (No change.)

(b) A hearing shall be conducted in accordance with **Administrative Procedure Act** [Administrative Procedure and Texas Register Act]; this section; and the formal hearing procedures in Chapter 1 of this title (relating to Board of Health) with the following exceptions:

(1)-(2) (No change.)

(c) (No change.)

This board hereby certifies that the proposal has been reviewed by legal counsel and found to be within this board's authority to adopt.

Issued in Austin, Texas on May 29, 1996.

9607467

Susan K. Steeg

General Counsel

Texas Department of Health

Earliest possible date of adoption: July 8, 1996

For further information, please call: (512) 458-7236

## Part II. Texas Department of Mental Health and Mental Retardation

### Chapter 409. Medicaid Programs

#### Subchapter I. Rehabilitative Services for Persons with Mental Illness

##### 25 TAC §§409.351- 409.357

The Texas Department of Mental Health and Mental Retardation (TDMHMR) proposes the repeal of §§409.351-409.357, governing rehabilitative services for persons with mental illness. The repeal is proposed contemporaneously with the proposal of new sections of Chapter 409, Subchapter I, in this issue of the *Texas Register*.

The proposed repeal would allow for the proposal of new sections governing rehabilitative services for persons with mental illness.

Don Green, Chief Financial Officer, has determined that for each of the first five years the sections, as proposed, are in effect there will be no fiscal impact to state or local governments. There is no anticipated local economic impact.

Ernest McKenney, director, Medicaid Administration, has determined the public benefit is the adoption of new rules that will enable the department to better manage the public funding of services for persons with mental illness. There will be no effect on small businesses. There is no significant economic cost to persons who are required to comply with the sections as proposed.

Comments on the proposal may be submitted to Linda Logan, director, Policy Development, Texas Department of Mental Health and Mental Retardation, P.O. Box 12668, Austin, Texas 78711-2668, within 30 days of publication.

The sections are proposed under the Health and Safety Code, §532.015(a), which provides the Texas Department of Mental Health and Mental Retardation Board with broad rulemaking authority; and under the provisions of Texas Civil Statutes, Article 4413(502), §16, which provides the Texas Health and Human Services Commission with the authority to administer federal medical assistance funds.

The sections affect Texas Human Resources Code, §§32.001-32.040, and Texas Civil Statutes, Article 4413(502), §16.

§ §409.351. *Definitions.*

§§409.352. *Eligible Individuals.*

§§409.353. *Rehabilitative Services.*

§§409.354. *Service Limitations.*

§§409.355. *Provider Participation Requirements.*

§§409.356. *Rehabilitative Services Reimbursement Methodology.*

§§409.357. *Right to Appeal.*

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on May 22, 1996.

TRD-9607470

Ann Utley

Chairman

Texas Board of Mental Health and Mental Retardation

Proposed date of adoption: October 1, 1996

For further information, please call: (512) 206-4516.

##### 25 TAC §§409.351-409.365

The Texas Department of Mental Health and Mental Retardation (TDMHMR) proposes new §§409.351-409.365 of Chapter 409, Subchapter I, governing rehabilitative services for persons with mental illness. The new sections would replace existing §§409.351-409.357 of Chapter 409, Subchapter I, governing rehabilitative services for persons with mental illness, which are proposed contemporaneously for repeal in this issue of the *Texas Register*.

The new sections are proposed to more clearly define the services covered by this rule; to eliminate duplication of services; to more clearly define the population eligible for rehabilitative services; to expand the licensure categories of persons recognized as qualified to recommend and approve the provision of rehabilitative services; and to redefine the reimbursable unit of service and set limits on the amount of services that will be reimbursed.

A public hearing will be held at 9:00 a.m. on June 25, 1996, in the TDMHMR Central Office auditorium at 909 West 45th Street in Austin to accept oral and written testimony concerning the proposed amendments. If interpreters for the hearing impaired are required, please notify Laura Thomas at least 72 hours prior to the hearing by calling (512) 206-4516.

Don Green, chief financial officer, has determined that for the first five years the sections as proposed would be in effect, there will be a reduction in state general revenue expenditure requirements of \$38,044,892. This dollar figure is the result of the impacts of various events that will occur as the rules are implemented, some related to the proposed rules and some driven by events outside of the proposed rules. In reviewing preliminary data, the department projects that \$29,580,672 of the reduction results from reduced costs being experienced by the providers of rehabilitation services. In calculating the fiscal impact, the department assumes that \$20,825,781 of state general revenue previously reimbursed through rehabilitation services will be provided through other program and administrative funding sources after the implementation of these rules. It has been determined that for each of the first five years the sections as proposed would be in effect there will be: for FY 1997 a total impact of \$52,822,185 of which \$33,045,559 is federal funds and \$19,776,626 is state funds; for FY 1998 there will be a total impact of \$53,915,847 of which \$33,848,369 is federal funds and \$20,067,478 is state funds; for FY 1999 total impact is \$56,288,144 of which \$35,337,697 is federal funds and \$20,950,447 is state funds; for FY 2000 total impact is \$58,483,382 of which \$36,715,867 is federal funds and \$21,767,515 is state funds; and for FY 2001 total impact is \$60,764,234 of which \$38,147,786 is federal funds and \$22,616,448 is state funds. There is no anticipated local economic impact.

Ernest McKenney, director, Medicaid administration, has determined the public benefit is the development of rules which enable the department to better manage the public funding of services for persons with mental illness. There will be no effect on small businesses. There is no significant economic cost to persons who are required to comply with the sections as proposed.

Questions about the content of the proposal may be directed to Mr. McKenney. Written comments on the proposal may be submitted to Linda Logan, director, Policy Development, Texas Department of Mental Health and Mental Retardation, P.O. Box 12668, Austin, Texas 78711-2668, within 30 days of publication.

The sections are proposed under the Health and Safety Code, §532.015(a), which provides the Texas Mental Health and Mental Retardation Board with broad rulemaking authority; and under the provisions of Texas Civil Statutes, Article 4413(502), §16, which provides the Texas Health and Human Services Commission with the authority to administer federal medical assistance funds.

The section affects Texas Human Resources Code, §§32.001-32.040, and Texas Civil Statutes, Article 4413(502), §16.

#### §§409.351. *Purpose.*

The purpose of this subchapter is to define rehabilitation services for persons with mental illness; describe documentation and reimbursement for rehabilitation services for persons with mental illness; and to describe the methods by which eligibility is established and reimbursement for covered services is accomplished.

#### §§409.352. *Application.*

This subchapter applies to rehabilitation services for persons with mental illness.

#### §§409.353. *Definitions.*

The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise:

Arrangement-A contract executed between the enrolled Medicaid provider of rehabilitative services and a qualified person or entity for the provision of direct rehabilitation services to eligible recipients.

Department -The Texas Department of Mental Health and Mental Retardation (TDMHMR) or its designee.

Individual - Medicaid-eligible recipient of rehabilitative services.

Institution for mental diseases-A hospital, nursing facility, or other institution of more than 16 beds, that is primarily engaged in providing diagnosis, treatment, or care of persons with mental illness, including medical attention, nursing care, and related services.

Direct contact - Face-to-face intervention with the Medicaid-eligible recipient of rehabilitative services (or the primary care giver of a minor child who is receiving rehabilitative services) for the purpose of ameliorating the symptoms of the individual's mental illness.

Emergency - A situation in which an individual is at immediate risk of causing harm to self or others.

Licensed practitioner of the healing arts-An individual who is:

(A) a physician (MD or DO) licensed to practice medicine in Texas;

(B) a licensed professional counselor (LPC) as defined in Texas Civil Statutes §4512g;

(C) a licensed masters social worker (LMSW)-Advanced Clinical Practitioner (ACP) as defined in the Human Resources Code, Chapter 50; or

(D) a licensed or certified psychologist as defined in Texas Civil Statutes §4495b.

Medically necessary services - Those services which:

(A) are reasonable and necessary for the treatment of a mental health or chemical dependency disorder or to improve, maintain, or prevent deterioration of functioning resulting from such a disorder;

(B) are in accordance with accepted standards of practice in behavioral health care;

(C) are furnished in the most appropriate and least restrictive setting in which services can be safely provided;

(D) are the most appropriate level or supply of service which can be safely provided; and

(E) could not have been omitted without adversely affecting the individual's mental and/or physical health or the quality of care rendered.

On site-Services provided at a site operated by the provider such as a clinic, clubhouse, or day treatment setting.

Professional - An individual who possesses the qualifications of a qualified mental health professional as defined in Chapter 408, Subchapter B of this title, governing Mental Health Community Services Standards.

Paraprofessional -All staff providing direct care, other than those designated as qualified mental health professionals as defined in Chapter 408, Subchapter B of this title, governing Mental Health Community Service Standards, who have received training appropriate to their area of responsibility. The work of all mental health paraprofessionals is supervised by qualified mental health professionals.

Treatment plan - The plan which an individual and his/her provider develop, based on assessments, to address the identified needs of the individual. At a minimum, the plan includes measurable outcomes targeted to identified symptoms/needs, individual functioning, treatment intervention, time frames, and responsible staff.

Rehabilitative services - Any medical or remedial services recommended by a licensed practitioner of the healing arts, practicing within the scope of his/her license, for maximum reduction of an individual's mental disabilities and restoration to his/her best functional level.

Texas Department of Mental Health and Mental Retardation (TDMHMR) -The Texas Department of Mental Health and Mental Retardation or its designee.

Unit of service:

(A) Community support services - The reimbursable unit of service for community support services is as follows:

- (i) brief direct contact - 1 to 30 minutes;
- (ii) intermediate direct contact - 31 to 60 minutes;

or

- (iii) extended direct contact - 61 to 90 minutes.

(B) Day program - The reimbursable unit of service for day programming is one hour.

Vocational services- Services related to the preparation of an individual for employment including training in job task specific skills and job development or placement.

#### *§409.354. Eligible Individuals.*

To be eligible for Medicaid reimbursement of rehabilitative services under this subchapter, an individual must:

(1) be under the age of 18 with a diagnosis of a mental illness other than a single diagnosis of mental retardation, substance abuse, autism, or pervasive developmental disorder, and have a current Global Assessment of Functioning (GAF) score of 50 or less, or have been identified in school by special education personnel as being emotionally disturbed, or have been determined to be at risk of out-of-home placement due to an emotional disturbance; or

(2) be 18 years of age or older, with a diagnosis of a severe and persistent mental illness such as schizophrenia, major depression, or bipolar disorder, or another severely disabling mental disorder (other than a sole diagnosis of mental retardation or substance abuse), with a current Global Assessment of Functioning (GAF) score of 50 or less;

(3) be enrolled as a Medicaid recipient;

(4) be residing in a living arrangement other than an institution for mental diseases as defined in §409.351 of this title (relating to Definitions), and, in the absence of these services, be at risk of institutionalization; or, if residing in a nursing facility, have been determined to require specialized services by the

department through a preadmission screening and annual resident review assessment; and

(5) except for medically necessary services to ameliorate an emergency situation, have a current treatment plan that specifies and describes in writing the treatment and rehabilitative services which are reasonable and medically necessary to ameliorate the effects of mental illness.

#### *§§409.355. Rehabilitative Services: General Requirements.*

(a) Individuals must be assessed according to the department's uniform assessment protocol, and be determined to be in need of rehabilitative services.

(b) A licensed practitioner of the healing arts, practicing within the scope of his or her license, working under the auspices of the enrolled Medicaid provider, must personally evaluate each individual and prescribe or approve by signature on the treatment plan based on the findings of the assessments.

(c) The treatment plan must be developed and reviewed/updated in accordance with Chapter 408, Subchapter B of this title, governing Mental Health Community Services Standards.

(d) Approval of the treatment plan is required before the delivery of rehabilitative services unless an emergency situation requires immediate intervention. The rationale for emergency interventions must be documented in the individual's medical record.

(e) Services must be provided by professional staff or paraprofessional staff working under the supervision of a professional, trained in accordance with Chapter 408, Subchapter B of this title, governing Mental Health Community Services Standards.

(f) Services for adults and children must be provided separately.

#### *§§409.356. Reimbursable Rehabilitative Service Definitions: Community Support Services.*

(a) Definition. All community support services include individualized or small group services provided by professionals or paraprofessionals under the supervision of a professional, either on site (including in the home of a child or an adult) or in the community, but not as part of a day program. Services include an assessment by professional staff and training provided by professional or paraprofessional staff under the supervision of a professional. Treatment and training objectives and skills attainment will be monitored for effectiveness and modified as needed.

(b) Service components. Service components provided under this definition include:

(1) Symptom management and support services. Services focus on managing, reducing, or eliminating acute symptoms of mental illness in adults and acute or persistent symptoms of emotional disturbance in children. The assessment includes the gathering of baseline information on the manifestation of the psychiatric symptomatology, designing interventions, including interventions for children, and monitoring outcomes. Unscheduled interventions may be provided on an emergency basis.

(A) Nursing services are provided by an RN or LVN and include:

- (i) administration of medication;
- (ii) monitoring of the efficacy of medication;

- (iii) monitoring of the side-effects of medication;
- (iv) nursing services relating to detoxification; and
- (v) other nursing services which enable adults with

mental illness and children who are severely emotionally disturbed to attain or maintain an optimal level of functioning.

(B) Other symptom management and support services are provided to adults by a professional or paraprofessional to assist in the identification and management of symptoms of mental illness. Other symptom management and support services are provided to children by professional to assist in the identification and management of severe emotional disturbance. Such services may include but are not limited to:

- (i) instruction in methods of managing stress;
- (ii) instruction in strategies or behavioral techniques for coping with and managing the symptoms of mental illness in adults and emotional disturbance in children;
- (iii) reality orientation;
- (iv) training related to self-administration of medication;
- (v) identification and management of side-effects of medication; or
- (vi) supportive services during times of crisis or episodes of acute symptomatology.

(2) Community living skills. Services focus on ameliorating mental and functional disabilities by focusing on the effect of the psychiatric symptomatology on community integration. Such services may include but are not limited to:

- (A) problem solving, training, support, and supervision related to activities of daily living to assist individuals in gaining and utilizing skills required to attain or maintain community tenure (e.g., personal hygiene, household tasks, money management, etc.);
- (B) training and support that will enable the adult or child to access needed services in the community (e.g. medical care, dental care, legal services, transportation services, living accommodations, etc.);
- (C) training to improve communication, increase interpersonal interactions, and enhance appropriate interpersonal behaviors; and
- (D) interventions to develop natural supports in the adult or child's living, social, and learning environments.

(3) Employment-related support and skills training. Services focus on reducing or managing behaviors or symptoms of mental illness that interfere with an adult's ability to obtain or retain employment. Assessments by professional staff include the gathering of baseline information on the skill strengths and deficits, determining the impact of the individual's symptomatology on employment, designing interventions, and monitoring outcomes. Such services may include but are not limited to:

- (A) instruction in dress, grooming, socially acceptable behaviors, and etiquette necessary to obtain or retain employment;
- (B) instruction in arranging transportation, utilizing public transportation, accessing and utilizing available resources

related to the acquisition of employment, and accessing employment-related programs and benefits such as unemployment, workers compensation, and social security;

(C) interventions or supportive contacts provided on or off the job site to reduce behaviors and symptoms of mental illness that interfere with job performance; and

(D) interventions designed to develop natural supports on or off the job site to compensate for skill deficits that interfere with job performance.

§§409.357. *Reimbursable Rehabilitative Service Definitions: Day Program Services for Acute Needs.*

(a) Definition. Day program for acute needs includes program-based services focused on the short-term, intensive treatment provided by professionals and paraprofessionals to adults with serious mental illness or children with severe emotional disturbance who require multidisciplinary treatment in order to stabilize acute psychiatric symptomatology and prevent admission to a more restrictive setting, including a psychiatric hospital, nursing facility, or similar setting. Contacts with staff will be frequent, activities and services constantly available, development of social supports encouraged and facilitated, and staff will receive specialized training in crisis management. Activities will be goal oriented, focusing on improving peer interaction, appropriate social behavior, experience in the community, and stress tolerance. The initial prescribed length of stay per episode may not exceed ten consecutive calendar days for adults. Extensions may be authorized by the department or its designee based on evidence that an extension would be medically necessary to improve the individual's current condition or to prevent admission to a more restrictive setting, including psychiatric hospital, nursing facility, or similar setting.

(b) Service components. Service components provided under this definition include:

(1) Psychiatric nursing care. Continuous on-site services are provided by an RN and include assessment, supervision, coordination of medical activities, monitoring and evaluation of medications for effectiveness, medication training, administration of medication, specimen collection, crisis medical interventions (as ordered by a physician), and general nursing care.

(2) Behavior skills training. Assessment by professional staff and training provided by professional or paraprofessional staff focuses on minimizing the effect of the individual's mental illness on his/her level of function. The assessment component includes the gathering of baseline information on the manifestation of the acute psychiatric symptomatology, designing interventions and monitoring outcomes. These objectives and skills will be monitored for effectiveness modifications will be made as needed. The training component includes teaching children or adults about:

- (A) symptomatology;
- (B) ways to avoid florid occurrences;
- (C) the identification of signs of reoccurrence of symptomatology; and
- (D) assisting the individual in developing internal locus of control in regard to symptomatology and developing new coping mechanisms associated with the symptomatology.

(3) Independent daily living skills training. Assessment by professional staff and training provided by professional or paraprofessional staff focused on assisting the child or adult to acquire the most immediate, fundamental functional skills needed to enable the individual to reside in the community and avert more restrictive levels of treatment. This assessment component includes the gathering of baseline information pertaining to current functional skill levels, the identification of those skills that the adult will need to increase community tenure or the child will need to be maintained at home or in the preferred living situation, the development of an individualized skill acquisition program, and the evaluation of outcomes. The training component includes skill training as prescribed in the individual treatment plan. For children this may include, but is not limited to, self tasks, socialization, and developmentally appropriate skills. For adults this may include, but is not limited to, the development of skills in the areas of personal hygiene, nutrition, food preparation, exercise, and integration into activities in the community.

(c) Location of services. Services will be provided in a highly structured and safe environment with constant supervision. Day programs for acute needs may be provided in free-standing programs serving persons residing elsewhere in the community or within a 16-bed (or smaller) short-term, crisis resolution-oriented treatment setting.

(d) Staffing ratios. Minimum staffing ratios for day programs for acute needs are as follows (Note: minimum requirements are not to be construed as absolutes. Based on consumer need, additional staffing must be provided and documented to ensure safety and adequacy of programming):

(1) one RN on site at all times during hours of operation for each 16 individuals and additional staff as required to maintain a ratio of one staff member to four individuals;

(2) one additional professional staff available, with a response time not to exceed 30 minutes, during all hours of program operation,;

(3) one physician available, with a response time not to exceed 30 minutes during all hours of day program operation; and

(4) a minimum of two staff must be on site at all times of program operation.

(e) Supervision. Day programs for acute needs must be under the direction of a professional other than the on-site RN required to meet the minimum staffing ratios.

*§§409.358. Reimbursable Rehabilitative Service Definitions: Day Program Services for Skills Training.*

(a) Definition. Day programs for skills training are program-based services, including school-based services for children, provided by professionals or paraprofessionals to adults with serious mental illness or children with severe emotional disturbance who, with instruction, guidance, and structure or support, may be capable of increasing their level of functioning and who do not require more intensive short-term treatment. Adults served in this program should be able to manage self-care tasks, demonstrate awareness of impact on others, demonstrate a measurable degree of goal orientation, and not exhibit either threatening or extremely disruptive behaviors. Program components focus on the amelioration of mental and functional deficits through skills training and supportive interventions.

(b) Service components. Service components provided under this definition include:

(1) Nursing services. On-site services are provided by an RN or LVN, including:

(A) monitoring and evaluation of medications for effectiveness; (B) medication training;

(C) administration of medication;

(D) specimen collections (as ordered by a physician); and

(E) general nursing care.

(2) Medication training. Instruction is provided by an RN or LVN that includes, but is not limited to, information pertaining to the purpose of the medication, potential side-effects of the medication, contraindications, overdose precautions, and self administration of medication.

(3) Community integration skills training. Assessment is provided by professional staff and training is provided by professional or paraprofessional staff, focused on assisting the child or adult to acquire skills necessary to enable the individual to function appropriately in the community. The assessment component includes the gathering of baseline information pertaining to current functional skill levels, the identification of skills necessary for the adult to increase community tenure (including the development of a skills acquisition program, with an evaluation of outcomes) and the child to function effectively in his/her social environment (family, peers, school). For children, the training component may include, but is not limited to, instruction in behavioral skills necessary for the child to be maintained in his/her usual community and school setting, socialization, stress management, and other developmentally appropriate skills. For adults, instruction is provided by a professional or appropriately trained paraprofessional under the supervision of a professional, relating to community integration (including but not limited to safety, home maintenance, employment, security, mobility, accessing services, and social appropriateness), instruction in self-care tasks (i.e., personal hygiene, health, nutrition, dress, grooming, manners, etc.).

(4) Symptom management skills training. Training is provided by professionals to assist the child in the identification and management of symptoms of emotional disturbance or to assist adults in the identification and management of symptoms of mental illness. Training may include methods of managing stress, and behavioral strategies and techniques for coping with and managing the symptoms of mental illness.

(c) Location of services. Day programs for skills training may be offered either at freestanding sites in the community or within a 16-bed (or smaller) residential treatment/training facility.

(d) Staffing ratios. Minimum staffing ratios for day program for skills training are as follows (Note: minimum requirements are not to be construed as absolutes. Based on consumer need, additional staffing must be provided and documented to ensure safety and adequacy of programming):

(1) one professional staff must be on site during all hours of program operation;

(2) additional staff sufficient to maintain a ratio of one staff to six children and one staff to eight adults during all hours of program operation;

(3) one additional professional available during all hours of program operation with a response time not to exceed 30 minutes (this professional may not be someone assigned full time to another day program); and

(4) a minimum of two staff must be on site during all hours of program operation.

(e) Supervision. Day programs for skills training must be under the direction of a professional other than the professional staff required to meet minimum staffing ratios.

*§§409.359. Reimbursable Rehabilitative Service Definitions: Day Program Services for Skills Maintenance.*

(a) Definition. Day program for skills maintenance comprise program-based, long-term services provided to adults with a severe and persistent mental illness who are in need of day program services to ensure personal well being and to reduce the risk of or duration of placement in a more restrictive setting, including psychiatric hospital, nursing facility, or similar facility. The provision of extended care day program services is limited to individuals who, due to age or the nature of the mental illness, are unable to benefit from a more active skills-based training program. Services provided under this program have as their primary focus the maintenance of functional skills, symptom reduction, and the provision of assistance with activities of daily living. Professional or paraprofessional staff will be present at all times in order to meet individual needs, provide support, and ensure individual safety. Activities are provided that focus on socialization, skill maintenance, and community integration.

(b) Service components. Service components provided under this definition include:

(1) Nursing services. Care is provided by an RN or LVN to:

- (A) monitor and administer medication;
- (B) manage physical medical conditions; and

(C) coordinate treatment with the primary care physician and psychiatrist as necessary.

(2) Skill maintenance programming. Activities are provided by professional or paraprofessional staff, aimed at utilizing existing functional skills in order to maintain those skills or slow their deterioration. These activities include, but are not limited to, personal care skills, social integration skills, relaxation exercise skills and movement activities.

(3) Activities to increase community integration. This service focuses on the development of socially valued, age-appropriate activities aimed at providing life enriching experiences. These activities include involvement in community activities (going to the movies, library, restaurants, etc.), visiting community focal points (church, cultural attractions, etc.), and development of recreational interests (bingo, hobbies, reading, etc.).

(c) Location. Day programs for skill maintenance may be offered either at freestanding sites in the community, within a 16-bed (or smaller) assisted living facility, or within facilities of 17 or more beds, that are not otherwise Medicaid reimbursed, when persons receiving the services are 65 or more years of age.

(d) Staffing ratios. Minimum staffing ratios for day programs for skill maintenance are as follows (Note: minimum requirements are not to be construed as absolutes. Based on consumer need, additional staffing must be provided and documented to ensure safety and adequacy of programming):

(1) one RN available during all hours of program operation with a response time not to exceed 30 minutes and who is not assigned full time to another day program;

(2) additional staff must be present to maintain a ratio of one staff to five individuals during all hours of program operation;

(3) one additional professional staff must be available with a response time not to exceed 30 minutes during all hours of program operation and who is not concurrently employed in another day program; and

(4) a minimum of two staff must be on site at all times of program operation.

(e) Supervision. Day programs for skill maintenance must be under the direction of professional other than the RN required for the minimum staffing ratios.

*§§409.360. Documentation Requirements*

(a) Rehabilitative services for which Medicaid reimbursement is sought must be documented prior to submitting a claim for service at the following intervals:

(1) community support services-after each direct contact;

(2) day programming for acute need-daily;

(3) day programming for skills training and day programming for skills maintenance:

(A) daily for documentation elements in subsection (b)(1)-(5) of this section;

(B) weekly for documentation elements in subsection (b)(6)-(7) of this section; and

(C) at the time of occurrence for any pertinent clinical events.

(b) Documentation must include:

(1) type of service provided;

(2) date and actual time the service was provided;

(3) amount of time spent in the delivery of the service;

(4) who provided the service;

(5) setting in which the service was provided;

(6) goal or objective of the treatment plan addressed by the service; and

(7) progress or lack of progress in achieving treatment outcomes.

*§§409.361. Service Limitations.*

(a) Reimbursement is inclusive of all services provided within the day program, including the services of physicians or others who may be called to the day program to attend to the needs of an individual.

(b) Individual or small group services provided to an individual on the same day as day programming must not duplicate training

or services that are offered within the day program or must be of an emergency nature, the need for which occurred outside the hours of the day program. Similar community support service contacts with the primary care givers of minor children enrolled in a day program may occur while the child is in the day program.

(c) Emergency services may not be provided in a small group setting.

(d) Reimbursement will not be provided for services in excess of:

(1) six hours of individual services per calendar day;

(2) three hours of small group services per calendar day; and

(3) six hours of day programming per calendar day.

(e) Individuals must be present, awake, and participating during the time for which a claim is submitted.

(f) Rehabilitative services provided in residential facilities must be conducted in part of the facility that is separate and distinct from the recipient's sleeping quarters in that facility.

(g) Small group services are limited to a maximum of eight individuals.

(h) Services must be delivered in accordance with the applicable standards as described in Chapter 408, Subchapter B of this title, governing Mental Health Community Services Standards.

(i) Staff providing day program services cannot provide individual or small group community support services during program hours.

(j) Nursing services that are incidental to another Medicaid service, including an office visit with a physician, are not covered as rehabilitative services.

#### §§409.362. *Program Limitations.*

(a) Rehabilitative services are not reimbursable as Medicaid services if they are duplicative or if they are associated with the proper and efficient administration of the state plan. Rehabilitative services associated with the following are not reimbursable:

(1) Medicaid eligibility determinations and redetermination;

(2) Medicaid eligibility intake processing;

(3) prior authorization for Medicaid services;

(4) Medicaid preadmission screening;

(5) required Medicaid utilization review;

(6) Early Periodic Screening, Diagnosis, and Treatment (EPSDT) administration; and

(7) Medicaid "lock-in" provided for under §1915(a) of the Social Security Act.

(b) Specifically, reimbursement will not be made for the following:

(1) services that are an integral and inseparable part of another Medicaid service;

(2) outreach activities that are designed to locate individuals who are potentially Medicaid eligible;

(3) any medical evaluation, examination, or treatment billable as a distinct Medicaid covered benefit except as otherwise specified in this subchapter; or

(4) any rehabilitative services provided to an individual residing in a nursing facility, unless the individual has been determined by the department, through a preadmission screening and annual resident review (PASARR) assessment, to require specialized services in a nursing facility. Documentation of the PASARR determination must be maintained with the rehabilitative services treatment plan.

(c) In addition to the services described in subsection (a) and (b) of this section, rehabilitative services do not include the following:

(1) room and board residential costs;

(2) educational or vocational services;

(3) services provided in inpatient hospital settings;

(4) services to individuals with developmental disabilities that are non-psychiatric in nature;

(5) services in excess of the established benefit limits;

(6) services to inmates of a public institution (e.g., penal institutions) as defined in 42 CFR 435.1009;

(7) services to individuals under 65 years of age who are patients of an institution of mental diseases, as described in 42 CFR 435.1009(2), regardless of where the services are provided; and

(8) services to individuals who are residents of ICF-MR facilities.

#### §§409.363. *Provider Participation Requirements.*

To participate in the Texas Medical Assistance Program, and receive state and federal reimbursements for services to eligible individuals, a provider agency which provides directly or under arrangement rehabilitative services for persons with mental illnesses must:

(1) have an approved application on file with the department to participate as a provider of rehabilitative services for persons with mental illness in the Title XIX Texas Medical Assistance Program;

(2) be certified by the department to provide rehabilitative services. Day program services must be individually certified. Multiple day programs occurring at the same time, at a single facility must be separate and distinct both in staff and location;

(3) meet the following criteria:

(A) meet the requirements of Chapter 408, Subchapter B of this title, governing Mental Health Community Services Standards;

(B) be a community-based agency provided for under §534.054 of the Texas Health and Safety Code;

(C) have a service delivery system that provides or insures the provision of the required services as outlined in §534.053 of the Texas Health and Safety Code and by the department; and

(D) be in compliance with the Guidelines for Annual Financial and Compliance Audits of Community MHMR Centers and/or other state policies and procedures as determined by the state auditor and the TDMHMR Office of Internal Audit;

(4) comply with all applicable federal, state, and local laws and regulations pertaining to rehabilitative services for persons with mental illness;

(5) sign a written provider agreement with the department. By signing the agreement, the provider of rehabilitative services for persons with mental illnesses agrees to comply with the terms of the agreement and all regulations, rules, handbooks, standards, and guidelines published by the department;

(6) bill for services covered by the Texas Medical Assistance Program in the manner and format prescribed by the department;

(7) ensure that rehabilitative services are delivered through a system with written standards and procedures which ensure there is an overall coordination of rehabilitative services for eligible Medicaid recipients;

(8) ensure that when services are provided under arrangement that the provider delivering those services under arrangement:

(A) complies with all applicable federal, state, and local laws and regulations relating to rehabilitative services for persons with mental illnesses;

(B) has in effect an agreement with the provider agency stipulating that the provider delivering services under arrangement complies with all requirements of the Texas Medical Assistance Program including regulations, rules, handbooks, standards, and guidelines; and

(C) meet the requirements of Chapter 408, Subchapter B of this title, governing Mental Health Community Standards applicable for the service(s) being delivered;

(9) retain the full responsibility for rehabilitative services whether delivered directly or under arrangement.

*§§409.364. Rehabilitative Services Reimbursement Methodology.*

(a) General information.

(1) The department will reimburse qualified providers for rehabilitative services provided to Medicaid-eligible persons with mental illness.

(2) The Texas Mental Health and Mental Retardation Board determines reimbursement according to §§409.001-409.007 of this title (relating to General Specifications; Methodology; Basic Objectives and Criteria for Desk Review of Cost Reports; Determination of Inflation Indices; Notification; Adjusting Rates When New Legislation, Regulations, or Economic Factors Affect Costs; and Reviews and Administrative Hearings). The reimbursement is uniform and determined prospectively and at least annually. Reimbursement may be determined more often if the Texas Mental Health and Mental Retardation Board determines it to be necessary.

(b) Reimbursement during initial reimbursement period.

(1) For the initial reimbursement period October 1, 1996, through September 30, 1997, providers will be reimbursed utilizing estimated costs to determine pro forma rates. The pro forma rates were developed based on salary data obtained from the Texas Medical Association and the 1994 National Survey of Hospital and Medical School Salaries. Salaries were based on median salary rates and adjusted as appropriate for Texas-specific salaries. The Implicit Price Deflator for Personal Consumption Expenditures (IPD-PCE)

was used to inflate the 1994 salaries to the initial rate period. Rates are cost based using staffing requirements as specified in §409.356 of this title (relating to Reimbursable Rehabilitative Service Definitions: Community Support Services; §409.357 of this title (relating to Reimbursable Rehabilitative Service Definitions: Day Program Services for Acute Needs); §409.358 of this title (relating to Reimbursable Rehabilitative Service Definitions: Day Program Services for Skills Training); and §409.359 of this title (relating to Reimbursable Rehabilitative Service Definitions: Day Program Services for Skills Maintenance).

(2) During the initial reimbursement period, the department will collect cost data as described in subsection (d) of this section.

(3) Utilizing data collected during the initial period, the department will calculate rates using the process described in subsection (e) of this section and use these cost-based rates for reconciliation of payments made using the pro forma rates.

(c) Reimbursement during subsequent periods. Beginning October 1, 1997, the reimbursement will be developed via the department's cost report process as described in subsections (d) and (e) of this section. (d) Reporting of Costs.

(1) Cost reporting. Providers must submit information quarterly, unless otherwise specified, on a cost report formatted according to the department's specifications, and preapproved by the department. From the data, the department will develop and implement cost-based, statewide, uniform reimbursements for rehabilitative services. Providers must complete the cost report forms according to the rules and specifications set forth in the methodology specified in this section.

(2) Reporting period and due date. Provider agencies must prepare the cost report to reflect rehabilitative activities during the designated cost report reporting period. The cost reports must be submitted to the department no later than 45 days following the end of the designated reporting period unless otherwise specified by the department.

(3) Extension of the due date. The department may grant extensions of due dates for good cause. A good cause is one that the provider agency could not reasonably be expected to control. Provider agencies must submit requests for extensions in writing to the department before the cost report due date. The department responds to requests within 10 workdays of receipt.

(4) Failure to file an acceptable cost report. If a provider agency fails to file a cost report according to all applicable rules and instructions, the department may withhold all provider payments until the provider agency submits an acceptable cost report.

(5) Allocation method. If allocations of cost are necessary, provider agencies must use and be able to document reasonable methods of allocation. The department adjusts allocated costs if the department considers the allocation method to be unreasonable. The provider agency must retain work papers supporting allocations, as specified in TAC 40 §69.202, relating to Contractor Records.

(6) Cost report certification. Provider agencies must certify the accuracy of cost reports submitted to the department in the format specified by the department. Provider agencies may be liable for civil and/or criminal penalties if they misrepresent or falsify information.



(7) Cost data supplements. The department may at times require additional financial and statistical information other than the information contained on the cost report.

(8) Review of cost reports. The department staff review each cost report to ensure that all financial and statistical information submitted conforms to all applicable rules and instructions. The review of the cost report includes a desk audit. The department reviews all cost reports according to the criteria specified in §409.003 of this title (relating to Basic Objectives and Criteria for Desk Review of Cost Reports). If a provider agency fails to complete the cost report according to instructions or rules, the department returns the cost report to the provider agency for proper completion. The department may require information other than that contained in the cost report to substantiate reported information.

(9) On-site audits. The department may perform on-site audits on all provider agencies that participate in the Medicaid program for rehabilitative services. The department determines the frequency and nature of audits but ensures that they are not less than that required by federal regulations related to the administration of the program.

(10) Notification of exclusions and adjustments. The department notifies providers of exclusions and adjustments to reported expenses made during desk reviews and on-site audits of cost reports as specified in §409.005 of this title (relating to Notification).

(11) Access to records. Each enrolled provider must allow access to all records necessary to verify cost report information submitted to TDMHMR. This requirement includes records pertaining to related-party transactions and other business activities engaged in by the enrolled provider. If a provider agency does not allow inspection of pertinent records within 14 days following written notice from the department, a hold is placed on vendor payments until access to the records is allowed. If the provider agency continues to deny access to records, the department may cancel the provider agency's contract.

(12) Record keeping requirements. Provider agencies must maintain records according to the requirements specified in TAC 40 §69.202, relating to Contractor Records. Provider agencies must ensure that records are accurate and sufficiently detailed to support the financial and statistical information contained in cost reports.

(13) Failure to maintain adequate records. If a provider agency fails to maintain adequate records to support the financial and statistical information reported in cost reports, the department allows 30 days for the provider to bring record keeping into compliance. If a provider agency fails to correct deficiencies within 30 days from the date of notification of the deficiency, the department may cancel the provider agency's contract for services.

(e) Reimbursement determination. The department determines reimbursement in the following manner:

(1) Inclusion of certain reported expenses. Provider agencies must ensure that all requested costs are included in the cost report.

(2) Data collection. The department collects several different kinds of data. These include the number of units of rehabilitative services that individuals receive (client time) and the number of direct care service minutes by staff (server minutes). The cost data will include direct costs, programmatic indirect costs,

and general and administrative overhead costs. These costs include salaries, benefits, and other costs. Other costs include nonsalary related costs such as building and equipment maintenance, repair, depreciation, amortization, and insurance expenses; employee travel and training expenses; utilities; plus material and supply expenses.

(A) Server time is collected by the type of service delivered. These services are specified in §409.356 of this title (relating to Reimbursable Rehabilitative Service Definitions: Community Support Services; §409.357 of this title (relating to Reimbursable Rehabilitative Service Definitions: Day Program Services for Acute Needs); §409.358 of this title (relating to Reimbursable Rehabilitative Service Definitions: Day Program Services for Skills Training); and §409.359 of this title (relating to Reimbursable Rehabilitative Service Definitions: Day Program Services for Skills Maintenance).

(B) The server time can be given by professionals and paraprofessionals. These include, but are not necessarily limited to physicians, psychologists, nurses, social workers, mental health technicians, counselors, therapists, and therapy associates. The department collects the wages, salaries, benefits, and other costs to determine reimbursement.

(C) Programmatic indirect costs include salaries, benefits, and other costs of the rehabilitative service programs that are indirectly related to the delivery of rehabilitative services to individuals. General administrative overhead includes the salaries, benefits, and other costs of operations of the provider that, while not directly part of the rehabilitative program, constitute costs which support the operations of the rehabilitative program.

(3) Reimbursement methodology. The department determines the recommended reimbursement using the following method:

(A) Cost per unit of service. Within an individual service, the unit cost is determined by dividing the total cost of the rehabilitative service by the total units of service.

(B) Projected and adjusted costs. Reported costs are projected and adjusted prior to calculations for determining reimbursement. The department uses reasonable methods for projecting costs from the historical reporting period to the prospective reimbursement period. The historical reporting period is the time period covered by the cost report. Cost projections adjust the allowed historical costs for significant changes in cost related conditions anticipated to occur between the historical cost period and the prospective reimbursement period. Significant conditions include, but are not necessarily limited to, wage and price inflation or deflation, changes in program utilization and occupancy, modification of federal or state regulations and statutes, and implementation of federal or state court orders and settlement agreements. The department determines reasonable and appropriate economic adjusters, as specified in §409.004 of this title (relating to Determination of Inflation Indices), to calculate the projected expenses. The Implicit Price Deflator for Personal Consumption Expenditures (IPD-PCE), which is based on data from the U.S. Department of Commerce, is the most general measure of inflation and is applied to most salaries, materials, supplies, and services when other specific inflators are not appropriate. The three payroll tax inflators, FICA (Social Security), FUTA/SUTA (federal and state unemployment) and WCI (Workers' Compensation) are based on data obtained from the Statistical Abstract of the United States, the Texas Employment Commission, and the Texas Board of Insurance, respectively. For community-based providers, wage inflation factors are based on wage and hour survey information submitted on cost re-

ports or special surveys or the IPD-PCE, when wage and hour survey information is unavailable. For state-operated providers, the inflation factor is based on wage increases approved by the Texas Legislature. The department adjusts reimbursement if new legislation, regulations, or economic factors affect costs, as specified in §409.006 of this title (relating to Adjusting Rates when New Legislation, Regulations, or Economic Factors Affect Costs).

(C) Reimbursement determination. For each type of rehabilitative service each provider's cost per unit of service is calculated. The mean provider cost per unit of service is calculated, and the statistical outliers (those providers whose unit costs exceed plus or minus (+/-) two standard deviations of the mean provider cost) are removed. After removal of the statistical outliers, the mean cost per unit of service is calculated. This mean cost per unit of service becomes the recommended reimbursement per unit of service as of October 1, 1997.

(D) Reimbursement setting authority. The Texas Mental Health and Mental Retardation Board establishes the reimbursement in an open meeting after consideration of financial and statistical information and public testimony. The board sets reimbursements that, in its opinion, are within budgetary constraints, adequate to reimburse the cost of operations for an economic and efficient provider, and justifiable given current economic conditions.

(E) Reviews of cost report disallowances. A provider agency may request notification of the exclusions and adjustments to reported expenses made during either desk reviews or on-site audits, according to §409.005 of this title (relating to Notification). Providers may request an informal review and, if necessary, an administrative hearing to dispute the action taken by the department under §409.007 of this title (relating to Reviews and Administrative Hearings).

(F) Requirements for allowable costs. Allowable costs must be:

(i) necessary and reasonable for the proper and efficient administration of rehabilitative services for which TDMHMR has contracted;

(ii) authorized or not prohibited under state or local laws or regulations;

(iii) consistent with any limitations or exclusions described in this section, federal or state laws, or other governing limitations as to types or amounts of cost items;

(iv) consistent with policies, regulations, and procedures that apply to both rehabilitative services and other activities of the organization of which the contracted enrolled provider agency is a part;

(v) treated consistently using generally accepted accounting principles appropriate to the circumstances;

(vi) not allowable to or included as a cost of any other program in either the current or a prior period; and

(vii) net of all applicable credits.

(G) Reasonableness. A cost is reasonable if, in its nature and amount, it does not exceed that which would be incurred by an ordinarily prudent person in the conduct of competitive business. In determining the reasonableness of a given cost, the department considers the following:

(i) whether the cost is of a type generally recognized as ordinary and necessary for the provision of rehabilitative services or the performance under the contract;

(ii) the restraints or requirements imposed by generally accepted sound business practices, arm's length bargaining, federal and state laws and regulations, and contract terms and specifications; and

(iii) the action that a prudent person would take in the circumstances, considering his/her responsibilities to the public, the government, employees, clients, shareholders, and/or members, and the fulfillment of the purpose for which the business was organized.

(H) Allowable costs. Costs associated with rehabilitative services for persons with mental illness for which a claim is submitted must be found to be allowable as described in federal Circular OMB-A87, with the following exceptions:

(i) Equipment is defined as having a useful life of more than one year and a value of \$2500 or more.

(ii) Legal expense to prosecute claims against the state of Texas or the United States are unallowable.

§§409.365. *Right to Appeal.*

Applicants have the right to appeal the department's decisions as described in §409.007 of this title (relating to Reviews and Administrative Hearings). Requests for hearings should be submitted to the department.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on May 29, 1996.

TRD-9607469

Ann Utley

Chairman

Texas Mental Health and Mental Retardation Board

Earliest possible date of adoption: July 8, 1996

For further information, please call: (512) 206-4516

## TITLE 31. NATURAL RESOURCES AND CONSERVATION

### Part II. Texas Parks and Wildlife Department

#### Chapter 51. Executive

#### Easement Requests and Unauthorized Easement Activity

#### 31 TAC 51.91, 51.93-51.97

*(Editor's Note: The text of the following sections proposed for repeal will not be published. The sections may be examined in the offices of the Texas Parks and Wildlife Department or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)*

The Texas Parks and Wildlife Department proposes repeal of §§51.91, 51.93-51.97, concerning Easement Requests and Unauthorized Easement Activity. The provisions of these sections have been incorporated into department operational procedures. This action renders these sections redundant.

Dr. Bill Harvey, Regulatory Coordinator, has determined that for each of the first five years the repeals are in effect, there will be no fiscal implications for state or local governments.

Dr. Harvey also has determined that for each of the first five years the repeals as proposed are in effect the public benefit anticipated as a result of enforcing the repeals as proposed will be a removal of redundant sections of the Texas Administrative Code.

There will be no effect on small businesses. There is no anticipated economic cost to persons required to comply with the repeals as proposed.

The department has not filed a local impact statement with the Texas Employment Commission as required by the Administrative Procedure Act, §2001.022, as this agency has determined that the repeals as proposed will not impact local economies.

Comments on the proposed repeals may be submitted to Jim Riggs, Public Lands Division, Texas Parks and Wildlife Department, 4200 Smith School Road, Austin, Texas 78744, (512) 389-4904 or 1-800-792-1112, ext. 4904.

The repeals are proposed under Natural Resources Code, §§34.011-34.016.

The proposed repeals affect Natural Resources Code, §§34.011-34.016.

§51.91. *Easement Requests.*

§51.93. *Division Director Action .*

§51.94. *Consultant Use .*

§51.95. *Reconsideration of Request .*

§51.96. *Unauthorized Easement Activity .*

§51.97. *Department Action .*

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on May 28, 1996.

TRD-9607404

Bill Harvey

Regulatory Coordinator

Texas Parks and Wildlife Department

Proposed date of adoption: July 11, 1996

For further information, please call: (512) 389-4642

## Chapter 53. Finance

### License Fees and Boat and Motor Fees

#### 31 TAC §53.4, §53.5

The Texas Parks and Wildlife Department proposes amendments to §53.4 and §53.5, concerning commercial hunting/trapping licenses and permits; and public land hunting permits and fees.

The amendment to §53.4 changes the cross-reference in Title 31 TAC for the antlerless and spike-buck deer control permit

from §65.26 to §65.27 to conform with section numbers in the Statewide Hunting and Fishing Proclamation adopted by the Commission on May 9, 1996.

The amendment to §53.5(a) and (b) changes the cross-reference in Title 31 TAC for the public hunting permits from §65.194 to §65.193 to conform with section numbers in the Public Lands Hunting Proclamation adopted by the Commission on May 9, 1996.

The amendment to §53.5(c) changes the cross-reference in Title 31 TAC for the special and regular permits from §65.194 to §65.193 to conform with section numbers in the Public Lands Hunting Proclamation. The amendment also changes permit species classifications and fees to conform with those in the Public Lands Hunting Proclamation.

The amendment to §53.5(d) changes the cross-reference in Title 31 TAC for application fees from §65.194 to §65.193 to conform with section numbers in the Public Lands Hunting Proclamation, and changes permit species classifications and fees to conform with those in the Public Lands Hunting Proclamation and establishes an effective date of August 1, 1996 for the changes.

The amendment to §53.5(e) establishes competitive hunting dog field trial permits for field trials on public lands, fees for the permits, provides a cross-reference to §65.194 in the Public Lands Hunting Proclamation where the fees are also prescribed, and sets an effective date of September 1, 1996 for implementation.

Jayna Burgdorf, Chief Financial Officer, has determined that for the first five years the rules as proposed are in effect there will be fiscal implications to state government. Annual revenues are estimated to increase approximately \$5,000 each year the proposed rules are in effect. There will be minimal fiscal implications to local governments or small businesses as a result of the regulations as proposed.

Ms. Burgdorf also has determined that for each of the first five years the rules as proposed are in effect, the public benefits anticipated as a result of the adoption as proposed will be simplification and consistency in regulations concerning fees. It is anticipated there will be economic costs to persons required to comply with the rules as proposed. Fiscal implications for individuals will be dependent upon individual participation.

The Department has not filed a local employment impact statement with the Texas Employment Commission as it has been determined that the rules as proposed will not affect local economies.

Comments on the proposed rules may be submitted to Paul Israel, Texas Parks and Wildlife Department, 4200 Smith School Road, Austin, Texas, 78744; (512) 389-4823 or 1-800-792-1112, Ext. 4823.

The amendments are proposed under authority of Parks and Wildlife Code Chapter 11, §11.027, which provides the Parks and Wildlife Commission with authority to set fees for administration of department programs; and Chapter 62, §62.016, which provides the Parks and Wildlife Commission with authority to require permits for competitive hunting dog field trials conducted on public hunting areas.

The proposed amendments affect Parks and Wildlife Code, Chapters 11 and 62.

*§53.4. Commercial Hunting/Trapping Licenses and Permits.*

(a) Commercial hunting licenses and permits. The following license fee amounts are effective for the license year beginning September 1, 1995:

(1)-(11) (No change.)

(12) antlerless deer control permit (type 179) - \$300 (fee also prescribed in **§65.27** [§65.26] of this title (relating to Antlerless and Spike-Buck Deer **Control Permits** [Harvest Systems]))

(b) Commercial hunting/trapping licenses and permits. The following license fee amounts are effective for the license year beginning September 1, 1996, and thereafter:

(1)-(11) (No change.)

(12) antlerless and spike-buck deer control permit **application processing fee** (type 179) - \$300 (fee also prescribed in **§65.27 of this title (relating to Antlerless and Spike-Buck Deer Control Permits)** [§65.26])

(c)-(d) (No change.)

*§53.5. Public Land Hunting Permits and Fees.*

(a) Hunting permits. The following permit fee amounts are effective for the permit year beginning September 1, 1995 (fees also prescribed in **§65.193** [§65.194] of this title (relating to **Access Permit Required and Fees**)):

(1)-(4) (No change.)

(b) Hunting permits. The following permit fee amounts are effective for the permit year beginning September 1, 1996, and thereafter (fees also prescribed in **§65.193** [§65.194]):

(1)-(4) (No change.)

(c) Special and regular permits. The following permit fee amounts are effective for the permit year beginning September 1, **1996** [1995], and thereafter (fees also prescribed in **§65.193** [§65.194]):

(1) deer, **exotic mammal, pronghorn antelope, javelina, turkey, coyote, alligator**-\$50;

(2) deer , **exotic mammal, alligator** -extended period-\$100;

(3) **squirrel, game birds (other than turkey), rabbits and hares**-\$10 [exotic mammal-no charge]; **and**

(4) designated exotic mammal-no charge;

(5) **special package hunts**, desert bighorn sheep-no charge [;]

[(6) pronghorn antelope-\$50;

[(7) alligator-\$50;

[(8) javelina-\$25;

[(9) turkey-\$25;

[(10) coyote-\$25;

[(11) white-winged dove-\$12;

[(12) squirrel-\$6;

[(13) quail-\$6;

[(14) mourning dove-\$6;

[(15) woodcock-\$6;

[(16) waterfowl-\$6;

[(17) rails-\$6;

[(18) gallinules-\$6; and

[(19) snipe-\$6].

(d) Application fee (fees also prescribed in **§65.193** [§65.194]. The non-refundable application fee for individuals applying for computer-selected participant hunting opportunities is \$2.00 per applicant **for participation in the general drawings and \$10 per applicant for participation in the special package hunts** (except no charge for applicants under 17 years of age) effective **August 1, 1996** [September 1, 1995], and thereafter.

(e) **Competitive hunting dog field trial permit fees** (fees also prescribed in **§65.194 of this title (relating to Competitive Hunting Dog Event Permits and Fees)** effective September 1, 1996, and thereafter are as follows:

(1) **10 or less participants-\$100 per day;**

(2) **11-25 participants-\$200 per day;**

(3) **26-50 participants-\$300 per day;**

(4) **51-75 participants-\$400 per day; and**

(5) **76 or more participants-\$500 per day.**This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on May 29, 1996.

TRD-9607463

Bill Harvey, Ph.D.

Regulatory Coordinator

Texas Parks and Wildlife Department

Earliest possible date of adoption: July 11, 1996

For further information, please call: (512) 389-4642



## Texas Freshwater Fisheries Center Admission Fees 31 TAC §53.50

The Texas Parks and Wildlife Department proposes new §53.50, concerning Texas Freshwater Fisheries Center admission fees. The new section as proposed sets general admission fees for the Texas Freshwater Fisheries Center and sets requirements for student groups seeking entrance to the Center. The proposed new section delegates authority to the executive director to set admission fees, within a fee range established by the Commission, and to establish requirements for student groups seeking discounted entrance fees.

Melanie Callahan, Director of Finance, has determined that for the first five-year period the rule will be in effect there will be fiscal implications to state government, however, the fiscal effects can not be estimated at this time. The fiscal effect is dependent upon visitation at the Texas Freshwater Fisheries Center and the department can not reliably estimate visitation. There are no fiscal implications for local governments.

Mrs. Callahan also has determined that for each of the first five years the rule as proposed is in effect the public benefit anticipated as a result of establishing this fee is a continuation of maintaining the level of services now provided by the department. Further, the goal in establishing the fee is that of providing self-sufficiency in operation and maintenance of the Texas Freshwater Fisheries Center.

There will be no effect on small businesses. There are no economic costs to persons other than those who would choose to enter the Texas Freshwater Fisheries Center. The costs to persons seeking entrance to the Center will be the amount of the fee.

The department has not filed a local impact statement with the Texas Employment Commission as required by the Administrative Procedure Act, §2001.022, as this agency has determined that the rule as proposed will not impact local economies.

Comments on the proposed rule may be submitted to Phil Durocher, Inland Fisheries Division, Texas Parks and Wildlife Department, 4200 Smith School Road, Austin, Texas 78744, (512) 389-4643 or 1-800-792-1112, ext. 4643.

The new section is proposed under Parks and Wildlife Code, §11.027, which provides the commission authority to establish reasonable and necessary fees for administration of department programs.

The proposed new rule affects Parks and Wildlife Code, §11.027.

*§53.50. Texas Freshwater Fisheries Center Admission; Fees and other Entrance Requirements.*

(a) General entrance fees:

- (1) Adults (17-64) \$4.00-\$6.00;
- (2) Senior (65 and older) \$3.00-\$5.00;
- (3) Children (4 to 16) \$2.00-\$4.00;
- (4) Children (3 and under) Free.

(b) Student groups. Students meeting the following criteria shall pay a discounted entrance fee of \$1.00-\$2.00 per student:

- (1) Students must be enrolled in an accredited school and in grades preschool to high school;
- (2) Student discounts apply only to groups of 10 or more paying students;
- (3) Visits must be scheduled at least 21 days in advance of visitation date;
- (4) Student groups must have one chaperone accompanying each 10 students. Chaperones (one per each ten students only) and bus drivers transporting student groups to the Center shall be admitted free of charge.
- (5) All student groups fee payments shall be made in a single lump sum.

(c) The executive director may:

- (1) establish additional entrance requirements for student groups and teachers seeking a student discount entrance fee, as necessary, to enhance student utilization of the Center;

(2) set fees within the range established by the commission; and

(3) waive fee requirements when such a waiver is in the best interest of the public or the department.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on May 28, 1996.

TRD-9607405

Bill Harvey  
Regulatory Coordinator

Texas Parks and Wildlife Department

Proposed date of adoption: July 11, 1996

For further information, please call: (512) 389-4642

## Chapter 57. Fisheries

### Taking and Possessing Raptors for Falconry Purposes

#### 31 TAC §§57.301–57.315

*(Editor's Note: The text of the following sections proposed for repeal will not be published. The sections may be examined in the offices of the Texas Parks and Wildlife Department or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)*

The Texas Parks and Wildlife Department proposes the repeal of §§57.301-57.315, concerning Taking and Possessing Raptors for Falconry Purposes. The repeals are necessary in order to relocate, restructure and reorganize the regulations for more efficient administration. The repeals will function by eliminating the existing regulations at 31 TAC Chapter 57, concerning Fisheries, so that new regulations can be located at 31 TAC Chapter 65, concerning Wildlife.

Robert Macdonald, Wildlife Division regulations coordinator, has determined that for the first five-year period the repeals as proposed are in effect there will be no fiscal implications to units of state or local government as a result of enforcing or administering the repeals.

Mr. Macdonald also has determined that for each year of the first five years the repeals as proposed are in effect, the anticipated public benefit as a result of enforcing or administering the repeals will be the elimination of redundant regulatory provisions. There will be no effect on small businesses. There is no anticipated additional economic cost to persons required to comply with the repeals as proposed.

The Department has not filed a local employment impact statement with the Texas Employment Commission in compliance with the Administrative Procedure Act, Government Code, §2001.022, as this agency has determined that the repeals as proposed will not impact local economies.

Comments on the proposed repeals may be submitted to John Herron, Texas Parks and Wildlife Department, 4200 Smith School Road, Austin, TX 78744; (512) 389-4771 or 1-800-792-1112, extension 4771.

The repeals are proposed under Parks and Wildlife Code, Chapter 43, Subchapter C, which provides the Texas Parks and Wildlife Commission with the authority to promulgate rules governing the propagation of protected wildlife, and Chapter 49, which provides the commission with the authority to prescribe rules for taking and possessing raptors in this state.

Parks and Wildlife Code, Chapter 43, Subchapter C, and Chapter 49 are affected by the proposed repeals.

- §§57.301. *Definitions.*
- §§57.302. *Procedure for Processing Applications.*
- §§57.303. *Permit Provisions.*
- §§57.304. *Permit: Period of Validity.*
- §§57.305. *Permit: Renewal and Report.*
- §§57.306. *Permit Fees.*
- §§57.307. *Collecting Areas and Seasons for Trapping Raptors.*
- §§57.308. *Marking.*
- §§57.309. *Transfers.*
- §§57.310. *Change of Address.*
- §§57.311. *Permanent Relocation Out of State.*
- §§57.312. *Temporary Relocation Out of State.*
- § §57.313. *Permanent Relocation to Texas.*
- §§57.314. *Special Provision.*
- §§57.315. *Penalties.*

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on May 29, 1996.

TRD-9607460

Bill Harvey, Ph.D.

Regulatory Coordinator

Texas Parks and Wildlife Department

Earliest possible date of adoption: July 8, 1996

For further information, please call: (512) 389-4642

## Chapter 59. Parks

*(Editor's Note: The text of the following sections proposed for repeal will not be published. The sections may be examined in the offices of the Texas Parks and Wildlife Department or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)*

The Texas Parks and Wildlife Department proposes repeal of §§59.131-59.136 and new §§59.131-59.136, concerning State Park Rules. The repeal and new rules represent simplification, clarification and reduction of existing state park rules.

New §59.131 provides definitions necessary for clarification and understanding of subsequent sections. Proposed new §59.132 sets general rules for state parks. New §59.133 delegates authority to the executive director to set closing and opening hours for state parks. Proposed new §59.134 establishes rules of conduct in state parks. New §59.135 allows department personnel to remove vehicles, trailers, motor homes, camping

equipment or personal belongings, at owner expense, if check-out time is exceeded and new §59.136 provides reference to statutory penalties for violations of state park rules.

Dr. Bill Harvey, Regulatory Coordinator, has determined that for the first five-year period the rules will be in effect there will be no fiscal implications for state or local governments as a result of the repeal and new rules.

Dr. Harvey also has determined that for each of the first five years the rules as proposed are in effect the public benefit anticipated as a result of the repeal and new rules is simplification, clarification and reduction of rules concerning activities in Texas state parks.

There will be no effect on small businesses. There are no economic costs to persons required to comply with the new rules as proposed.

The department has not filed a local impact statement with the Texas Employment Commission as required by the Administrative Procedure Act, §2001.022, as this agency has determined that the rules as proposed will not impact local economies.

Comments on the proposed repeal and new rules may be submitted to Jim Riggs, Public Lands Division, Texas Parks and Wildlife Department, 4200 Smith School Road, Austin, Texas 78744; (512) 389-4904 or 1-800-792-1112, ext. 4904.

## State Park Rules

### 31 TAC §§59.131-59.136

The repeals are proposed under Parks and Wildlife Code, §13.101, which provides the commission authority to promulgate regulations governing the health, safety, and protection of persons and property on lands under the control of the department.

The proposed repeals affect Parks and Wildlife Code, §13.101.

- §59.131. *Definitions .*
- §59.132. *General Rules.*
- §59.133. *Closing Hours and Overnight Use.*
- §59.134. *Rules of Conduct.*
- §59.135. *Vehicles, Trailers, Motor Homes, Camping Equipment, or Personal Belongings.*
- §59.136. *Penalties.*

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on May 28, 1996.

TRD-9607409

Bill Harvey

Regulatory Coordinator

Texas Parks and Wildlife Department

Proposed date of adoption: July 11, 1996

For further information, please call: (512) 389-4642

## State Park Operational Rules

### 31 TAC 59.131-59.136

The new sections are proposed under Parks and Wildlife Code, §13.101, which provides the commission authority to promulgate regulations governing the health, safety, and protection of

persons and property on lands under the control of the department.

The proposed new rules affect Parks and Wildlife Code, §13.101.

*§59.131. Definitions .*

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise.

All-terrain vehicle—Any motor vehicle having a saddle for the use of the rider, designed to propel itself with three or four tires in contact with the ground.

Arms and firearms—Any device from which shot, a projectile, arrow, or bolt is fired by the force of an explosion, compressed air, gas, or mechanical device. To include, but not limited to, rifle, shotgun, handgun, air rifle, pellet gun, longbow, cross bow, sling shot, blow gun, or dart gun.

Artifacts—Objects used or modified by humans, including, but not limited to, arrow points, dart points: stone, bone, or shell implements or any other prehistoric or historic objects.

Boat—A vessel not more than 65 feet in length, measured from end to end over the deck, excluding sheer, and manufactured or used primarily for noncommercial use.

Cultural features—Include, but are not limited to, state archeological landmarks, archeological sites, historic sites and structures, Indian rock art, or historic rock art.

Department—The Texas Parks and Wildlife Department.

Director—The executive director of the Texas Parks and Wildlife Department or his designee.

Motorcycle—A two-wheeled vehicle propelled by an internal combustion engine to include motor bikes, mini-bikes, and trail bikes.

Night—Any time from 1/2 hour after sunset to 1/2 hour before sunrise.

Person—Natural persons, firms, partnerships, corporations, clubs, and all associations or combinations of persons acting individually, or by an agent, servant, or employee.

Plant life—All plants including trees, dead or downed wood, shrubs, vines, wildflowers, grass, sedge, fern, moss, lichen, fungus, or any other member of the plant family.

Public place—Any place to which the public or a substantial group of the public has access. In the state park system areas that are not considered a public place are cabins, screened shelters, recreation halls, group barracks, lodges, tents, campers, trailers, motor homes, or any vehicle(s) that are used as camping equipment.

Public nudity—To disrobe or appear nude in public. Females are considered to be disrobed when their breasts below the top of the areola are exposed except when nursing a baby.

State park—A park, park site, historical park, natural area, recreational area or fishing pier, administered, operated, or managed by the department.

Unattended pet—A pet that is unaccompanied or not under immediate control. Pets tied or secured outside of camping equipment or buildings are not considered under immediate control.

Wildlife—Any wild animal, bird, amphibian, reptile, fish, shellfish, aquatic life, or invertebrate.

*§59.132. General Rules.*

(a) Upon finding a need for public safety or welfare, or preservation of park resources, the director may impose restriction on public activity and conduct and may limit the use of any area or facility in a state park or a portion thereof. It is an offense for a person to enter or remain in an area or participate in an activity so restricted by the director.

(b) An employee of the department, peace officers, and emergency personnel are exempt from this chapter when this chapter conflicts with the discharge of their official duties to the extent of that conflict.

(c) Any vehicle, boat, trailer, or other property found parked, stored, or left in a state park in violation of any law or rule may be removed and stored at the owner's expense.

*§59.133. Closing Hours and Overnight Use .*

(a) The director may establish closing hours and opening hours for a state park or a portion of a state park. Closing hours or opening hours shall be posted.

(b) Except for persons duly authorized to use camping, trailer space, shelter, cabin or lodge facilities, or boat ramp, or for persons who have paid the overnight activity use fee, it is an offense for a person to enter into or remain within a state park between the closing hour and the opening hour.

*§59.134. Rules of Conduct in Parks.*

(a) Entrance/user fees: payment. It is an offense to enter, use, or occupy a facility in any portion of a state park for which a fee has been established, unless the person has first paid the fee or satisfied the requirements of the fee, has received an entrance/use permit issued by the department, and has attached the permit to their vehicle as and when required by the permit. If the office is closed, payment must be made according to posted instructions or signage.

(b) Use of facilities. It is an offense to:

(1) use an area or facility for any purpose contrary to its designated purpose; and

(2) keep, use, or arrange a motor vehicle, trailer, camping, or other equipment except as specified by the director. All vehicles and trailers must remain on paved surfaces and in designated areas only, unless otherwise specified by the director.

(c) Plant life. It is an offense to willfully mutilate, injure, destroy, pick, cut, or remove any plant life except by permit issued by the director.

(d) Fires; smoking; firewood; fireworks. It is an offense to:

(1) light, build, or maintain a fire within a state park except in a facility or device provided, maintained, or designated for such purposes or to smoke or build fires when an extreme fire hazard has been posted;

(2) notwithstanding paragraph (1) of this subsection, portable camp stoves may be used in designated campsites or picnic areas;

(3) possess within a state park any fireworks, explosives, or similar devices capable of explosion, or to discharge, set off, or

cause to be discharged in or into a state park any such device or substance, except with written authorization from the director.

(e) Animals. It is an offense to:

(1) bring into or possess within a state park a pet or other domesticated animal, unless the animal is secured by a leash not exceeding six feet in length, or confined in a vehicle, or to permit an animal to enter into or remain in a unit of the state park unless so secured;

(2) permit a pet or other animal to remain unattended or create a disturbance or hazard within a state park;

(3) permit an animal (except a trained assistance animal accompanying a person with a disability) to enter into or remain in any building or enclosure designated for public use including, but not limited to, a restaurant, snack bar, cabin, lodge room, restore, park store, shelter, refectory building, amphitheater, administration building, or railroad coach;

(4) permit a pet animal in the water of a designated swimming area or to permit a pet animal (except a trained assistance animal accompanying a person with a disability) within the land or beach area adjacent to the water of a designated swimming area;

(5) bring into, permit to range, or release into a state park a wild animal, pet, fowl, or livestock, except as authorized in this chapter or a permit or by law;

(6) possess a noisy, vicious, or dangerous animal, or one which is disturbing to other persons, in a state park;

(7) ride, drive, lead, or keep a saddle horse, except in designated areas;

(8) ride a saddle horse in a manner that is dangerous to a person or animal;

(9) allow a saddle horse to stand unattended or insecurely tied; and

(10) hitch a saddle horse to a tree, shrub, or structure in any manner that may cause damage.

(f) Arms and firearms. It is an offense to:

(1) possess a firearm with a cartridge or projectile in any portion of the mechanism, except when authorized by the commission or the director;

(2) display a firearm, except when authorized by the director or the commission; and

(3) discharge across, in, or into a state park any arm, firearm, or device capable of injuring or killing any person or animal or damaging or destroying public or private property, except when authorized by the director.

(g) Assembly. It is an offense to conduct or participate in an assembly or public demonstration except with written permission of the director.

(h) Nudity and disrobing. It is an offense to appear nude.

(i) Closed area. It is an offense to:

(1) prevent or interfere with development, construction, or management of a state park; and

(2) enter or remain in an area of a state park that has been closed by the director for any reason, including security, safety, preservation, or restoration.

(j) Alcoholic beverages. It is an offense to consume or display an open container of an alcoholic beverage in a public place or sell alcoholic beverages within a state park.

(k) Soliciting. It is an offense to solicit funds or donation of any item, or offer to sell any goods, wares, merchandise, liquid, or edibles, or render any service for hire, or distribute written material, in a state park, except by authority of a concession agreement approved by the director.

(l) Metal detector. It is an offense to operate or use a metal detector.

(m) Responsibility for minor children. It is an offense to permit a child or ward to violate a regulation when such child or ward is under 17 years of age.

(n) Speed limit. It is an offense to drive a vehicle within a state park at a speed:

(1) greater than is reasonable or prudent, having due regard for the traffic and the road conditions then existing;

(2) which endangers the safety of persons or property;

(3) which exceeds the posted speed limit in any portion of the state park system.

(o) Vehicle operation. It is an offense to operate a vehicle in a state park except on roads, driveways, parking areas, and areas designated open for vehicles.

(p) Parking. It is an offense to:

(1) park a vehicle or trailer in a state park except in areas designed, constructed, or designated for that purpose; and

(2) park, store, or leave a vehicle or trailer in violation of subsection (b) of this section when signs have been posted in the affected areas.

(q) Motorcycles. It is an offense to operate a motorcycle that is not licensed and inspected as authorized by Texas motor vehicle laws.

(r) Trail use. It is an offense to operate or use a vehicle, including a motorcycle, a motorbike, a mini-bike, an all-terrain vehicle, a golf cart, or a bicycle on a trail or path not designated and posted for use by such vehicles (wheel chairs and electric scooters used by persons with a disability are exempt) or use the trail in a manner that is dangerous to a person or animal.

(s) Traffic. It is an offense to:

(1) operate a vehicle in a state park between the park closing hour and 6 a.m. opening hour, except for emergency or necessary purposes; and

(2) operate a vehicle in an indiscriminate or unnecessary manner (cruising).

(t) Camping. It is an offense to camp except as authorized by permit in areas designated or marked for that purpose. Camping is defined as:

(1) occupying a designated camping facility;



(2) erecting a tent, or arranging bedding, or both, for the purpose of, or in such a manner as will permit, remaining overnight; or

(3) use of a trailer, camper, or other vehicle for the purpose of sleeping during nighttime hours.

(u) Minors, camping. It is an offense to remain in a state park between the park closing hour and opening hour, if the person is under the age of 17, except the following:

(1) a person who is accompanied by a parent or legal guardian;

(2) a person who furnishes to the park headquarters the written consent of and the full name, residence, and telephone number of parent or legal guardian;

(3) a person who is part of a group which is supervised during those hours by at least one responsible adult for each 15 persons under the age of 17; and

(4) married couples.

(v) Peace and quiet. It is an offense to:

(1) disturb other persons in sleeping quarters or in campgrounds between the hours of 10 p.m. and 6 a.m.; and

(2) cause, create, or contribute to any noise which is broadcast, or caused to be broadcast, into sleeping quarters or campgrounds, or which emits sound beyond the person's immediate campsite, between the hours of 10 p.m. and 6 a.m., whether by shouting or singing, by using a radio, phonograph, television, or musical instrument, or by operating mechanical or electronic equipment:

(A) use electronic equipment, including electrical speakers, at a volume which emits sound beyond the immediate individual camp or picnic site at any time without specific permission of the director;

(B) create a disturbance by causing excessive noise by any means.

(w) Abandoned and unattended property. It is an offense to:

(1) abandon a vehicle or other personal property;

(2) leave a vehicle, boat, barge, or other property unattended in a unit of the state park system in such a manner as to create a hazardous or unsafe condition; and

(3) leave property unattended in a state park without having received prior permission from the director or to leave a vehicle unattended after the closing hour, unless such person is legally in the park after closing, and unless he has parked the vehicle in a place designated by the director or he has prior permission from the director.

(x) Water skiing; swimming. It is an offense to:

(1) engage in water skiing, surf boarding while being towed, towing a person or a similar device, or operate a motorized ski device on lakes of less than 650 surface acres located in a state park;

(2) enter water or swim in an area closed for that activity;

(3) swim at night unless otherwise posted; and

(4) introduce, carry into, or possess, use, break, dispose of, throw, or abandon any glass container in the water of a swimming area, swimming pool, or in the beach area adjacent to the water of a swimming area.

(y) Mooring. It is an offense to:

(1) moor, dock, or berth a boat or any other object between the hours of 10 p.m. and 6 a.m., except in mooring areas designated by the director; and

(2) moor, dock, or berth a commercial vessel at any part of a state park except by permit from the director.

(z) Public use limit. It is an offense to:

(1) enter into, or remain in, an area or facility for which a public use limit has been established when such action will have the effect of exceeding the established limitations; and

(2) exceed the public use limit establishing a maximum number of persons and, if appropriate, the number and type of motor vehicles, trailers, and equipment permitted to enter into, or remain in, a designated area or facility at any time.

(aa) Check-out time. It is an offense to continue to occupy a facility past check-out time when a check-out time has been established by the director.

(bb) Wildlife. It is an offense to:

(1) harm, harass, disturb, trap, confine, catch, possess, or remove any wildlife, or portions of wildlife from a unit of the state park system, except by a permit issued by the director or as provided by the Parks and Wildlife Code, Chapter 62, Subchapter D; and

(2) release any fish into the waters of any state park, except as authorized by the Parks and Wildlife Code.

(cc) Geological features. It is an offense to take, remove, destroy, deface, tamper with, or disturb any rock, earth, soil, gem, mineral, fossil, or other geological deposit except by permit issued by the director.

(dd) Cultural features and/or artifacts. It is an offense to take, remove, destroy, deface, tamper with, or disturb any artifact or cultural feature except by permit issued by the director.

(ee) Waste water, sewage, and gray water. It is an offense to:

(1) deposit waste water, sewage, or effluent from sinks, toilets, or other plumbing fixtures directly on the ground or into the water;

(2) use any water fountain, drinking fountain, pool, sprinkler, reservoir, lake or any other water body contained in the park for bathing, laundering, and washing dishes, pets, or vehicles; and

(3) deposit fish parts at any location except park fish cleaning facilities.

*§59.135. Vehicles, Trailers, Motor Homes, Camping Equipment, or Personal Belongings .*

All vehicles, trailers, motor homes, camping equipment, or personal belonging may be removed at the owner's expense when exceeding the check-out time limitation of a facility.

*§59.136. Penalties.*

Penalties for violations of §§59.132-59.134 of this title (relating to General Rules, Closing Hours and Overnight Use, and Rules of Conduct) are Class C Misdemeanors, Parks and Wildlife Code, Chapter 13.112.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on May 28, 1996.

TRD-9607410

Bill Harvey

Regulatory Coordinator

Texas Parks and Wildlife Department

Proposed date of adoption: July 11, 1996

For further information, please call: (512) 389-4642

## Sea Rim State Park Special Rules and Regulations

### 31 TAC 59.221-59.236

*(Editor's Note: The text of the following sections proposed for repeal will not be published. The sections may be examined in the offices of the Texas Parks and Wildlife Department or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)*

The Texas Parks and Wildlife Department proposes repeal of §§59.221-59.236, concerning the Sea Rim State Park Special Rules and Regulations. The provisions of these sections have been incorporated into 31 TAC Chapter 65, Subchapter H, concerning the Public Lands Hunting and Fishing Proclamation and Chapter 59, §§59.131-59.136 concerning State Park Rules. These actions renders §§59.221-59.236 redundant.

Dr. Bill Harvey, Regulatory Coordinator, has determined that for each of the first five years the repeals as proposed are in effect, there will be no fiscal implications for state or local governments.

Dr. Harvey also has determined that for each of the first five years the repeals are in effect the public benefit anticipated as a result of enforcing the repeals as proposed will be a removal of redundant sections of the Texas Administrative Code.

There will be no effect on small businesses. There is no anticipated economic cost to persons required to comply with the repeals as proposed.

The department has not filed a local impact statement with the Texas Employment Commission as required by the Administrative Procedure Act, §2001.022, as this agency has determined that the repealed rules as proposed will not impact local economies.

Comments on the proposed repeal of rules may be submitted to Jim Riggs, Public Lands Division, Texas Parks and Wildlife Department, 4200 Smith School Road, Austin, Texas 78744, (512) 389-4904 or 1-800-792-1112, ext. 4904.

The repeals are proposed under Parks and Wildlife Code, Chapter 13, Subchapter B, which provides the Parks and Wildlife Commission's authority to regulate the activities on lands under the control of the Department.

The proposed repeals affect Parks and Wildlife Code, §13.101-13.102.

§59.221. *Application.*

§59.222. *Authority.*

§59.223. *Definitions.*

§59.224. *Visitor Registration.*

§59.225. *Permits.*

§59.226. *Vehicle Restrictions.*

§59.227. *Camping.*

§59.228. *Swimming.*

§59.229. *Water craft.*

§59.230. *Marsh Vehicles.*

§59.231. *Fishing.*

§59.232. *Hunting.*

§59.233. *Glass Containers.*

§59.234. *General.*

§59.235. *Penalties.*

§59.236. *Effective Date.*

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on May 28, 1996.

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Bill Harvey

Regulatory Coordinator

Texas Parks and Wildlife Department

Proposed date of adoption: July 11, 1996

For further information, please call: (512) 389-4642

## Mustang Island State Park Special Rules

### 31 TAC 59.251

*(Editor's Note: The text of the following section proposed for repeal will not be published. The section may be examined in the offices of the Texas Parks and Wildlife Department or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)*

The Texas Parks and Wildlife Department proposes repeal of §59.251, concerning the Mustang Island State Park Special Rules. The provisions of these sections have been incorporated into Chapter 65, Subchapter H, concerning the Public Lands Hunting and Fishing Proclamation. This action renders §59.251 redundant.

Dr. Bill Harvey, Regulatory Coordinator, has determined that for each of the first five years the repeal of rules as proposed is in effect, there will be no fiscal implications for state or local governments.

Dr. Harvey also has determined that for each of the first five years the repeal is in effect the public benefit anticipated as a result of enforcing the repeal as proposed will be the removal of a redundant section of the Texas Administrative Code.

There will be no effect on small businesses. There is no anticipated economic cost to persons required to comply with the repeal as proposed.

The department has not filed a local impact statement with the Texas Employment Commission as required by the Administrative Procedure Act, §2001.022, as this agency has determined that the repeal as proposed will not impact local economies.

Comments on the proposed repeal of rules may be submitted to Jim Riggs, Public Lands Division, Texas Parks and Wildlife Department, 4200 Smith School Road, Austin, Texas 78744, (512) 389-4904 or 1-800-792-1112, ext. 4904.

The repeal is proposed under Parks and Wildlife Code, Chapter 13, Subchapter B, which provide the Parks and Wildlife Commission's authority to regulate the activities on lands under the control of the Department.

The proposed repeal of rules affects Parks and Wildlife Code, §13.101-13.102.

§559.251. *Vehicle Restriction.*

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on May 28, 1996.

TRD-9607412

Bill Harvey

Regulatory Coordinator

Texas Parks and Wildlife Department

Proposed date of adoption: July 11, 1996

For further information, please call: (512) 389-4642

## Chapter 65. Wildlife

### Subchapter J. Transporting, Shipping, and Exporting Bobcat Pelts

#### 31 TAC §§65.251-65.255

*(Editor's Note: The text of the following sections proposed for repeal will not be published. The sections may be examined in the offices of the Texas Parks and Wildlife Department or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)*

The Texas Parks and Wildlife Department proposes the repeal of §§65.251-65.255 and new §§65.251-65.256, concerning Transporting, Shipping, and Exporting Bobcat Pelts. The repeals and new sections are necessary in order to simplify a confusing and difficult regulatory program. The repeals and new sections will function to eliminate burdensome paperwork and reorganize regulatory provisions in the interest of promoting user-friendliness while implementing the department's statutory duty to conserve the wildlife resources of this state.

Robert Macdonald, Wildlife Division regulations coordinator, has determined that for each of the first five years that the rules as proposed are in effect there will be no fiscal implications to state or local governments as a result of enforcing or administering the rules.

Mr. Macdonald also has determined that during the first five-year period the rules as proposed are in effect, the public benefit anticipated as a result of enforcing the rules as proposed will be a reduction in the complexity and volume of regulations, and regulations that are less burdensome to the regulated

community. There will be no effect on small businesses. There is no anticipated economic cost to persons required to comply with the rules as proposed.

The department has not filed a local impact statement with the Texas Employment Commission as required by the Administrative Procedure Act, §2001.022, as this agency has determined that the rules as proposed will not impact local economies.

Comments on the proposed rules may be submitted to Robert Macdonald, Wildlife Division, Texas Parks and Wildlife Department, 4200 Smith School Road, Austin, Texas 78744; (512) 389-4775 or 1-800-792-1112, ext. 4775.

The repeals and new sections are proposed under Parks and Wildlife Code, Chapter 67, which provides the Commission with authority to regulate nongame wildlife resources.

The repeals affect Parks and Wildlife Code, Chapter 67.

§§65.251. *Definitions.*

§§65.252. *Licences and Permits.*

§§65.253. *Limitations.*

§§65.254. *Report Requirements.*

§§65.255. *Penalties.*

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on May 29, 1996.

TRD-9607462

Bill Harvey, Ph.D.

Regulatory Coordinator

Texas Parks and Wildlife Department

Earliest possible date of adoption: July 8, 1996

For further information, please call: (512) 389-4642

### Subchapter J. Bobcat Proclamation

#### 31 TAC §§65.251-65.256

The new sections are proposed under Parks and Wildlife Code, Chapter 67, which provides the Commission with authority to regulate nongame wildlife resources.

The new sections affect Parks and Wildlife Code, Chapter 67.

§§65.251. *Definitions.*

The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise. All other words and terms shall have the meanings assigned in Subchapter A of this chapter.

Dealer-A person who tags bobcat pelts.

Pelt-The hide or skin of a bobcat, tanned or untanned, whether or not it is still attached to the carcass, but does not include products manufactured from bobcat skins or hides.

Tag-A permanent, numbered marker issued by the department for marking and identifying bobcat pelts.

§§65.252. *Bobcat Season.*

The general open season for the taking of bobcats is September 1 of one year through August 31 of the following year. There is no bag or possession limit.

**§§65.253. General Provisions.**

(a) The pelt of a bobcat taken in Texas shall not be transported beyond the borders of this state unless it has been permanently tagged in accordance with the provisions of this subchapter.

(b) A person shall not transport a bobcat pelt into this state unless the person possesses a valid hunting license, stamp, tag, permit, or document, issued by the state or country in which the bobcat was taken, as proof that the bobcat was legally taken.

(c) A licensed hunter may sell bobcat pelts to a dealer.

**§§65.254. Bobcat Tags.**

(a) Except as provided in §65.253(c) of this title (relating to General Provisions), no person may buy, sell, or trade the pelt of a bobcat taken in this state unless the pelt has been permanently tagged in accordance with this subchapter.

(b) Any person possessing a bobcat pelt for purposes other than buying, selling, or trading may obtain a bobcat pelt tag by presenting the pelt to any dealer or TPWD Law Enforcement Division Office and completing and signing an Annual Bobcat Pelt Tag Report (PWD 406)

(c) Any person other than a dealer who intends to transport or sell outside Texas the pelt of a bobcat taken in this state shall complete, sign, and submit an Out-of-State Shipping or Selling Report (PWD 404) within 20 days of the time the pelt is shipped.

**§§65.255. Bobcat Dealer Permits.**

(a) Permit Required. A person who buys or trades for untagged bobcat pelts must hold a dealer permit (PWD 410) A dealer permit may be obtained by completing and signing a Bobcat Pelt Dealer Permit and Tag Voucher (PWD 410) Upon any issuance of pelt tags, a dealer shall acknowledge receipt of the tags by signing the tag issuance voucher section of PWD 410.

(b) Reporting Requirements.

(1) The reporting period for dealers begins May 1 and ends April 30 of the following year. By no later than the 30th day following the end of a reporting period, a dealer shall submit a completed and signed (PWD 406) to department headquarters in Austin. The report required by this paragraph shall account for each pelt tag used by the dealer during the reporting period.

(2) All pelt tags in a dealer's possession at the end of the reporting period, and a signed list of unused tag numbers, must be returned to the department with the annual report.

(3) A dealer shall immediately notify the department in writing upon discovery that a pelt tag has been lost, stolen, destroyed or mutilated.

(c) Inspection. All pelts, pelt tag inventory, and associated records shall be available for inspection by any game warden.

(d) Unlawful acts. It is unlawful for any dealer to:

(1) refuse to tag a bobcat pelt presented as being legally taken in this state during the tagging period; or

(2) transfer tags issued to that dealer to any other dealer, or to use tags issued to another dealer.

(e) The department reserves the right to refuse tag issuance to any dealer not in compliance with the provisions of this subchapter.

**§§65.256. Penalties.**

The penalties for violations of this subsection shall be as prescribed in Parks and Wildlife Code, Chapter 71.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on May 29, 1996.

TRD-9607461

Bill Harvey, Ph.D.

Regulatory Coordinator

Texas Parks and Wildlife Department

Earliest possible date of adoption: July 8, 1996

For further information, please call: (512) 389-4642



## Subchapter K. Raptor Proclamation

### 31 TAC §§65.261-65.276

The Texas Parks and Wildlife Department proposes new §§65.261-65.276, concerning Falconry Permits. The new sections are necessary in order for the department to discharge its statutory duty to regulate the taking and possession of raptors for the purposes of falconry in this state. The new sections replace regulations formerly located at 31 TAC Chapter 57, concerning Fisheries, and are being relocated at 31 TAC Chapter 65, concerning Wildlife. The new sections, in addition to being restructured and reorganized for clarity's sake, will function to define regulatory terminology; delineate general and special provisions; set forth the criteria and procedures for permit issuance; establish facility standards; provide for reporting requirements and fees; establish the seasons and areas for trapping raptors; specify marking requirements; set forth regulations concerning the transfer of raptors between falconers; and articulate the procedures for falconers who move to or from Texas with raptors.

Robert Macdonald, Wildlife Division regulations coordinator, has determined that for the first five-year period the rules as proposed are in effect there will be no fiscal implications to units of state or local government as a result of enforcing or administering the rules.

Mr. Macdonald also has determined that for each year of the first five years the rules as proposed are in effect, the anticipated public benefit as a result of enforcing or administering the rules will be regulations that are easier and less costly to administer and comply with. There will be no effect on small businesses. There is no anticipated additional economic cost to persons required to comply with the rules as proposed.

The department has not filed a local employment impact statement with the Texas Employment Commission in compliance with the Administrative Procedure Act, Government Code, §2001.022, as this agency has determined that the rules as proposed will not impact local economies.

Comments on the proposed rules may be submitted to John Herron, Texas Parks and Wildlife Department, 4200 Smith

School Road, Austin, Texas 78744; (512) 389-4771 or 1-800-792-1112, extension 4771.

The new sections are proposed under Parks and Wildlife Code, Chapter 43, Subchapter C, which provides the Texas Parks and Wildlife Commission with the authority to promulgate rules governing the propagation of protected wildlife, and Chapter 49, which provides the commission with the authority to prescribe rules for taking and possessing raptors in this state.

Parks and Wildlife Code, Chapter 43, Subchapter C, and Chapter 49 are affected by the proposed new rules.

*§65.261. Applicability.*

This subchapter applies to all raptors in the state of Texas.

*§65.262. Definitions.*

The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise. All other words and terms shall have the meanings assigned by Parks and Wildlife Code.

Aptive bred-Raptors, including eggs hatched in captivity, from parents that mated or otherwise reproduced in captivity.

Eyas-a young raptor taken from the nest or still in the nest.

Holding-Retaining in captivity. Mew-an indoor facility for keeping a raptor.

Raptor-A live migratory bird of the Order Falconiformes or the Order Strigiformes.

Passage bird-An raptor less than one year of age that has left the nest.

Release to the wild-Release of wildlife to an area where it is capable of leaving at will.

Take-To trap or capture, or attempt to trap or capture, a wild raptor.

Weathering area-Outdoor facilities providing a raptor protection from the environment.

*§65.263. General Provisions.*

(a) No person shall take or possess a raptor in this state unless that person possesses valid state and federal permits to do so.

(b) Public display of raptors shall be:

(1) for educational purposes only;

(2) shall be performed only by general or master permit holders;

(3) and shall not exceed five presentations per year.

(c) General and master permittees may not sponsor more than three apprentices at one time.

*§65.264. Applications and Permits.*

(a) All permit applications shall be made using forms supplied by the department and shall be submitted with a copy of the applicant's federal falconry permit, or a copy of the completed application for the federal falconry permit.

(b) No permit shall be issued until the applicant has passed, with a minimum score of 80, a supervised, department-administered falconry examination.

(c) When the requirements of subsections (a) and (b) of this section have been met, and the department has received the applicable

fees from the applicant, the department shall forward the application to the U.S. Fish and Wildlife Service for concurrence and final processing prior to the issuance of a state permit.

(d) No state permits shall be issued until the applicant's facilities have passed an inspection conducted by a department representative.

(e) Permits may be issued for any period of time not exceeding three years from date of issuance and shall expire on June 30.

(f) A non-resident in possession of a raptor while hunting in this state must have on their person:

- (1) a copy of their federal falconry permit;
- (2) proof of licensure in another state; and
- (3) a five-day non-resident permit.

*§65.265. Permit Classes: Restrictions.*

A person who is not a resident of this state may not hold any permit issued under this subchapter other than a five-day non-resident permit.

(1) Apprentice class permittees:

(A) may possess only one of the following: American kestrel (*Falco sparverius*), red-tailed hawk (*Buteo jamaicensis*), or red-shouldered hawk (*Buteo lineatus*) Any red-tailed hawk or red-shouldered hawk in possession must have been captured as a passage bird; and

(B) may not replace a raptor more than once during any 12-month period.

(2) General class permittees:

(A) may not possess more than two raptors; and

(B) may not replace more than two raptors during any 12-month period.

(3) Master class permittees:

(A) may not possess more than three raptors; and

(B) may not replace more than three raptors during any 12-month period.

(4) Raptor propagator.

(A) Qualifications. An applicant for a raptor propagator permit must:

(i) be a resident of Texas;

(ii) be 18 years of age or older; and

(iii) have at least five years of experience in the practice of falconry at the apprentice level, or its equivalent.

(B) Restrictions. Raptor propagators:

(i) may not possess or breed species of raptors listed as endangered unless the propagator possesses a master class permit and can document proof of seven years' experience caring for and handling raptors; and

(ii) may not exchange, sell, or trade raptors, other than the offspring of captive-bred raptors.

*§65.266. General Facility Standards.*

(a) Permit holders shall comply with the applicable facilities and equipment standards of this subchapter in addition to any specific requirements stated in their permits. All facilities and equipment are subject to inspection by the department.

(b) Permit holders shall provide facilities appropriately sized, constructed, and maintained so as to provide a safe environment for raptors held under a permit issued under the authority of this subchapter. The primary consideration for raptor housing facilities, whether indoors (mews) or outdoors (weathering area), is protection from the elements, predators and undue disturbance.

(1) Clean water shall be available at all times except when medical circumstances require the temporary denial of water.

(2) Veterinary care shall be available to all raptors.

(c) Permittees shall maintain facilities that meet the following standards.

(1) Indoor facility standards.

(A) In any facility housing more than one raptor, the raptors shall be tethered or separated by partitions.

(B) Each raptor in possession must be provided with a minimum of 32 square feet and the area must be large enough to allow the raptor to fully extend its wings.

(C) There shall be at least one window, protected on the inside by vertical bars spaced narrower than the width of the raptor's body, and a secure door that can be easily closed.

(D) The floor of the mew shall permit easy cleaning and shall be well drained.

(E) Adequate perches shall be provided.

(2) Outdoor facility (weathering area) standards.

(A) Weathering areas shall be fenced and covered with netting or roofed to protect the raptors from disturbance and attack by predators.

(B) The enclosed area shall be large enough to insure that raptors cannot strike the fence when flying from a perch.

(C) A weathering facility shall provide each raptor with adequate protection from excessive sun, wind, and inclement weather.

(3) Only one facility is required if it meets the requirements for both indoor and outdoor facilities.

(d) Permittees shall have at least one each of the following items:

(1) gauntlet glove;

(2) one pair of aliymeri jesses or similar type constructed of pliable, high-quality leather or suitable synthetic material to be used when any raptor is flown free (traditional one piece jesses may not be used at any time);

(3) hood;

(4) a strong swivel of acceptable falconry design per raptor;

(5) a reliable scale or balance suitable for weighing a raptor, graduated to increments of not more than 1/2 ounce (15 grams);

(6) a flexible, weather-resistant leash per raptor;

(7) a bath container, two to six inches deep and wider than the length of the raptor, for drinking and bathing for each raptor; and

(8) one portable perch for each raptor.

(e) A raptor may be held in temporary facilities not to exceed 30 days. Temporary facilities shall be provided with an adequate perch and protected from extreme temperatures and excessive disturbances. The provisions of this subsection include authorization to transport a raptor to and from a temporary facility.

(f) Another general or master falconer may care for the raptors of a permit holder for up to 30 days if written authorization from the permit holder accompanies the raptors when they are transferred.

(g) Feathers that are molted and feathers from raptors that die in captivity may be retained and exchanged by permit holders only for imping purposes.

#### *§65.267. Reports.*

(a) Permittees shall submit to the department a legible copy of any federal form or report submitted to the U.S. Fish and Wildlife Service at the same time such paperwork is forwarded to that agency.

(b) A permittees conducting a public display of raptors possessed under this subchapter shall notify the department in writing within ten days of such display.

#### *§65.268. Permit Fees.*

(a) Fees for original permits are:

(1) apprentice falconry permit (original)-\$50;

(2) general falconry permit-\$100;

(3) master falconry permit-\$150;

(4) raptor propagator permit-\$50; and

(5) non-resident permit-\$20.

(b) A renewal fee of \$50 must accompany each application for renewal.

#### *§65.269. Trapping Seasons and Collecting Areas.*

(a) The trapping season for raptors begins September 15 and ends December 31. The season for taking eyasses begins May 1 and ends June 30. A marked raptor may be retrapped at any time.

(b) Except as expressly authorized in writing by the department, raptors shall not be trapped at any time in Brewster, Culberson, El Paso, Hudspeth, Jeff Davis, Presidio, or Terrell counties.

(c) No eggs may be taken from raptor nests.

(d) Eyasses shall be taken only by a general or master falconer. No person shall take more than two eyasses during the season for taking eyasses.

(e) Only American kestrels (*Falco sparverius*) and great-horned owls (*Bubo virginianus*) may be taken when over one year old.

(f) Any raptor other than an endangered species taken under a depredation (or special purpose) permit may be used for falconry by a general or master falconer. Endangered species taken under a depredation permit shall not be released to the wild without prior department approval of the release site.

**§65.270. Marking.**

(a) No gyrfalcon, peregrine falcon, or Harris hawk may be acquired under a permit issued pursuant to this subchapter unless the person acquiring the raptor first obtains a numbered nonreusable marker supplied by the U.S. Fish and Wildlife Service. The marker must be attached to the raptor immediately upon acquisition.

(b) It is unlawful for any person to alter, counterfeit, or deface a marker, except that a permit holder may remove the rear tab on markers and smooth an imperfect surface, provided the integrity of the marker and numbering are not affected.

**§65.271. Transfers.**

(a) A general or master permit holder may transfer or exchange raptors with another general or master permit holder, provided:

(1) such transfer or exchange involves raptors that each receiver may legally hold; and

(2) there is no consideration or remuneration involved.

(b) Not more than one out-of-state transfer or exchange of a wild-trapped raptor may be made during any 12-month period by a permit holder.

**§65.272. Change of Address.**

The department shall be notified within 14 days of any change of address of a permit holder within the state.

**§65.273. Temporary Relocation Out of State.**

A permit holder who temporarily relocates to another state may maintain a Texas falconry permit provided a permanent residence is maintained by the permittee in the State of Texas. A falconry permit may be reissued for one two-year period for any permit holder temporarily residing out of state. A permit holder who has remained out of state for a period longer than two years will be presumed to have established permanent residence in another state and a Texas falconry permit will not be reissued.

**§65.274. Permanent Relocation to Texas.**

A person holding a valid falconry permit issued by another state and who is establishing residence in Texas must apply to the department for a Texas falconry permit within 10 days of bringing permitted raptors to the state. The department shall determine permit issuance based on previous licensed experience obtained in other states.

**§65.275. Special Provisions.**

(a) General or master permit holders may hold, transport, use in the sport of falconry, or release species not indigenous to this state only by express written authorization of the department.

(b) Raptors possessed prior to January 15, 1975 may be retained and shall not be part of the number of raptors authorized by a permit.

**§65.276. Violations and Penalties.**

(a) Any violation of Parks and Wildlife Code, a regulation of the commission, or provision of a permit shall be cause for the department, at its discretion, to deny further permit issuance.

(b) Penalties for a violation of this chapter are as provided by Parks and Wildlife Code, §49.017.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on May 29, 1996.

TRD-9607459

Bill Harvey

Regulatory Coordinator

Texas Parks and Wildlife Department

Earliest possible date of adoption: July 8, 1996

For further information, please call: (512) 389-4642



## Subchapter Q. Fur-bearing Animal Proclamation

*(Editor's Note: The text of the following sections proposed for repeal will not be published. The sections may be examined in the offices of the Texas Parks and Wildlife Department or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)*

The Texas Parks and Wildlife Department proposes the repeal of §§65.371-65.374, 65.376-65.383, and 65.389, and new 65.380, concerning Statewide Fur-bearing Animal and Trapping Proclamation.

The repeals and new sections are necessary in order to simplify a confusing and difficult regulatory program. The repeals and new sections will function by establishing clear regulatory distinctions between recreational and commercial take of fur-bearing animals; regulating the commercial propagation of fur-bearing animals; regulating the import, export, and release of fur-bearing animals; and by promoting user-friendliness while implementing the department's statutory duty to conserve the wildlife resources of this state.

Robert Macdonald, Wildlife Division regulations coordinator, has determined that for each of the first five years that the rules as proposed are in effect there will be no fiscal implications to state or local governments as a result of enforcing or administering the rules.

Mr. Macdonald also has determined that during the first five-year period the rules as proposed are in effect, the public benefit anticipated as a result of enforcing the rules as proposed will be a reduction in the complexity and volume of regulations, and regulations that are less burdensome to the regulated community. There will be no effect on small businesses. There is no anticipated economic cost to persons required to comply with the rules as proposed.

The department has not filed a local impact statement with the Texas Employment Commission as required by the Administrative Procedure Act, §2001.022, as this agency has determined that the rules as proposed will not impact local economies.

Comments on the proposed rules may be submitted to Robert Macdonald, Wildlife Division, Texas Parks and Wildlife Department, 4200 Smith School Road, Austin, Texas 78744; (512) 389-4775 or 1-800-792-1112, ext. 4775.

**31 TAC §§65.371-65.374, 65.376-65.383, 65.389**

The repeals are proposed under Parks and Wildlife Code, Chapter 71, which provides the Commission with authority to regulate the taking, possession, propagation, transportation, exportation, importation, and sale of fur-bearing animals.

The repeals and new sections affect Parks and Wildlife Code, Chapter 71.

§§65.371. *Application.*

§§65.372. *Definitions.*

§§65.373. *License Fees.*

§§65.374. *Licensed Requirement.*

§§65.376. *General Rules.*

§§65.377. *Open Seasons.*

§§65.378. *Possession of Fur bearing Animals or Their Pelts.*

§§65.379. *Means and Methods.*

§§65.380. *Sale or Purchase of Fur-bearing Animals or Their Pelts.*

§§65.381. *Purchase/Sale Reports.*

§§65.382. *Importation and Release of Fur-bearing Animals or Their Pelts.*

§§65.383. *Suspension and Revocation of License or Permit.*

§§65.389. *Penalty.*

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on May 29, 1996.

TRD-9607458

Bill Harvey, Ph.D.

Regulatory Coordinator

Texas Parks and Wildlife Department

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For further information, please call: (512) 389-4642



## Subchapter Q. Fur-bearing Animal Proclamation 31 TAC §§65.371-65.380

The new sections are proposed under Parks and Wildlife Code, Chapter 71, which provides the Commission with authority to regulate the taking, possession, propagation, transportation, exportation, importation, and sale of fur-bearing animals.

The new sections affect Parks and Wildlife Code, Chapter 71.

§§65.371. *Application.*

This subchapter applies to fur-bearing animals statewide, except as otherwise specifically provided for in Parks and Wildlife Code.

§§65.372. *Definitions.*

The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise. All other words and terms shall have the meanings assigned in Subchapter A of this chapter or Parks and Wildlife Code, Chapter 71.

Commercial harvest-The take of a fur-bearing animal under a trapping license.

Finished product-The tanned pelt of a fur-bearing animal or any item manufactured from the pelt of a fur-bearing animal.

Recreational harvest-The take of a fur-bearing animal under a hunting license, or under a trapper's license outside of the season for commercial harvest.\$400.75.

§§65.374. *General Rules.*

(a) No person may take fur-bearing animals on public roads and highways or their rights-of-way, or in the state-owned riverbeds in Uvalde, Zavala, and Dimmit counties.

(b) Each fur-bearing animal or pelt taken or possessed in violation of this subchapter shall constitute a separate offense.

(c) No person may possess a live skunk or civet cat without specific written authorization from the department.

(d) No person may hunt a fur-bearing animal on any privately-owned land or body of water without the consent of the landowner.

(e) No retail fur buyer may possess undried pelts during the period May 1 through October 31.

(f) No wholesale fur dealer or retail fur buyer may purchase pelts from a trapper from April 6 through October 31.

§§65.375. *Open Seasons; Means and Methods.*

(a) Recreational harvest.

(1) The open season for the recreational harvest of fur-bearing animals is September 1 of one year to August 31 of the following year.

(2) The daily bag limit is one fur-bearing animal and the possession limit is two fur-bearing animals. A fur-bearing animal that has been reduced to a finished product shall not be considered part of the possession limit.

(3) Fur-bearing animals, pelts, and carcasses possessed under this paragraph shall not be sold.

(b) Commercial harvest.

(1) The open season for the commercial harvest of fur-bearing animals is November 1 of one year through March 31 of the following year. Nutria may be taken from September 1 through August 31 of the following year.

(2) There are no bag or possession limits.

(3) From April 6 through October 31 no licensed trapper may possess more than two undried pelts taken under a trapper's license.

(c) Means and Methods.

(1) Only the following means and methods are legal for taking fur-bearing animals:

(A) firearms;

(B) steel leghold and conibear-style traps;

(C) falconry;

(D) live or box trap;

(E) dogs;

(F) snare;



- (G) lawful archery equipment;
- (H) electronic or hand-held calls; and
- (I) artificial light.

(2) Exceptions. No person may:

- (A) take river otter with firearms;
- (B) shoot at, take or attempt to take any fur-bearing animal from a boat on public waters of this state;
- (C) take fur-bearing animals with steel leghold or conibear-style traps, except during the open season for commercial harvest; or
- (D) set steel leghold or conibear-style traps within 400 yards of any school; or
- (E) use smoke, explosives or chemicals of any kind to aid in the hunting of fur-bearing animals.

(3) Special provisions.

(A) Conibear-style traps with a diagonal opening dimension greater than 10 inches shall not be set on land or in less than six-inches of water.

(B) Snares, steel leghold traps, conibear-style traps, and live or box traps shall be examined at least every 36 hours.

(C) Animals taken by the means and methods listed in this section shall be removed upon discovery.

§ 65.376. *Possession of Live Fur-bearing Animals.*

(a) No person other than the holder of a fur-bearing animal propagation license may possess a live fur-bearing animal at any time, except as otherwise provided in this chapter.

(b) A propagation license may be issued following an initial facility inspection by the department. Additional inspections may be made at department discretion. For persons not engaged in selling or trading fur-bearing animals, there is no initial facility inspection; however, inspections may be performed at the discretion of the department.

(c) The holder of a fur-bearing animal propagation license shall provide the following for each animal in possession:

- (1) a sufficient supply of fresh water at all times;
- (2) shelter from heat and inclement weather; and
- (3) an enclosure of at least 20 inches in height and eight square feet in area. Enclosures shall be cleaned daily.

(d) Offspring of fur-bearing animals held under a propagation permit may be kept with their parents or siblings for up to 120 days from birth in an enclosure meeting the height and area requirements for a single animal.

(e) Nothing in this subchapter shall prohibit a taxidermist from possessing for taxidermy purposes a fur-bearing animal or the pelt of a fur-bearing animal lawfully taken or possessed under this subchapter, provided the animal or pelt is labeled with the name and address of the owner of the animal or pelt.

(f) Live fur-bearing animals may be taken and possessed for three days or less for instructional or demonstration purposes upon written authorization of the department.

§ 65.377. *Sale or Purchase of Fur-bearing Animals or Their Pelts.*

(a) No person other than licensed trappers, retail fur buyers, wholesale fur dealers, or fur-bearing animal propagators may sell fur-bearing animals or the pelts of fur-bearing animals, and no person other than licensed retail fur buyers, wholesale fur dealers or fur-bearing animal propagators may purchase fur-bearing animals or their pelts.

(b) Live fur-bearing animals may be sold only:

(1) by persons who hold a valid fur-bearing animal propagation license; or

(2) to persons authorized by permits issued under Parks and Wildlife Code, Chapter 43, or another licensed fur-bearing animal propagator.

(c) No person shall sell or export live fur-bearing animals outside this state without receiving prior written authorization from the department. A request for authorization shall include written documentation verifying that the recipient of the live animals is in compliance with applicable regulations in the destination state. A copy of the completed authorization shall accompany the animals at all times during shipment or be attached to the shipping container used to export the animals.

§ 65.378. *Importation and Release of Fur-bearing Animals or Their Pelts.*

(a) No person may import live fur-bearing animals into this state from another state or country unless:

(1) a permit has been issued by the department for such importation and a copy of the completed permit accompanies any live fur-bearing animal being imported or is attached to any container used to import live fur-bearing animals;

(2) the imported animals are accompanied by a health certificate signed by a veterinarian accredited in the state of origin; and

(3) if the imported animals are foxes, raccoons, or skunks, a signed letter of authorization issued by the Texas Department of Health.

(b) Imported live fur-bearing animals, live fur-bearing animals previously held in captivity, and fur-bearing animals live-trapped as nuisances may not be released into the wild without the written consent of the department. Animals released under provision of this subsection must be accounted for in a report filed with the department on or before the tenth day of the month following the month of release. The report shall list the species, number captured and released, date and location of capture, date and location of release, and name and address of person authorized to release.

§ 65.379. *Reporting Requirements.*

(a) Any person licensed as a retail fur buyer or wholesale fur dealer must complete and file an appropriate annual report with the department by May 31 of each year.

(b) Any person licensed as a fur-bearing animal propagator must complete and file an appropriate annual report with the department by August 31 of each year.

(c) The department reserves the right refuse permit issuance to any person not in compliance with this section.

§ 65.380. *Penalty*

The penalties for a violation of this subchapter are prescribed by Texas Parks and Wildlife Code, Chapter 71.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on May 29, 1996.

TRD-9607457

Bill Harvey, Ph.D.

Regulatory Coordinator

Texas Parks and Wildlife Department

Earliest possible date of adoption: July 8, 1996

For further information, please call: (512) 389-4642

## **TITLE 37. PUBLIC SAFETY AND CORRECTIONS**

### **Part IX. Commission on Jail Standards**

#### **Chapter 257. Construction Approval Rules**

##### **37 TAC §257.9**

The Commission on Jail Standards proposes an amendment to §257.9, concerning Construction Approval Rules, to add the requirement that all new jails be built in accordance with the federal Americans with Disabilities Act Accessibility Guidelines. The agency proposes to adopt the federal guidelines by reference.

Jack E. Crump, executive director, has determined that for the first five year period the section is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the sections.

Mr. Crump also has determined that for each year of the first five years the section is in effect the public benefits anticipated as a result of enforcing the section as proposed will be to provide accessible jail cells and support areas for disabled inmates and staff in accordance with federal guidelines.

There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the sections as proposed.

Comments on the proposal may be submitted to Rhonda C. Long, P. O. Box 12985, Austin, Texas, 78711, 512-463-5505.

The amendment is proposed under Government Code, Chapter 511 which provides the Texas Commission on Jail Standards with the authority to adopt reasonable rules and procedures establishing minimum standards for the construction, equipment, maintenance and operation of county jails.

The statutes that are affected by these rules are Local Government Code, Chapter 351, 351.002 and 351.015.

*§§257.9 Laws Applicable.*

Facilities constructed prior to subsequent amendments to these rules, entailing changes, additions, or deletions to the structure of equipment therein, shall not be required to meet the changes unless the change also establishes a date by which the change shall be effected. The facility shall conform to the building, safety, and health requirements of state and local authority. **The facility shall also conform to Title 36, CFR, Part 1191, Sections 11.41, 11.42 and Chapter**

**12 in its entirety regarding the Americans with Disabilities Act Accessibility Guidelines (ADAAG). The commission adopts these rules by reference.** State standards for a facility which exceed those of the local authority shall take precedence. Where local building codes do not exist, the Uniform Building Code or Standard Building Code, latest editions, will apply.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on May 24, 1996.

TRD-9607444

Jack E. Crump

Executive Director

Commission on Jail Standards

Earliest possible date of adoption: July 8, 1996

For further information, please call: (512) 463-5505

#### **Chapter 259. New Construction Rules**

##### **Maximum Security Design, Construction and Furninshing Requirements**

##### **37 TAC §259.138**

The Commission on Jail Standards proposes an amendment to §259.138, concerning New Construction Rules, to delete the reference to court for remote holding cells in construction standards.

Jack E. Crump, executive director, has determined that for the first five year period the section is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the sections.

Mr. Crump also has determined that for each year of the first five years the section is in effect the public benefits anticipated as a result of enforcing the section as proposed will be to provide standards which encompass all types of cells.

There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the sections as proposed.

Comments on the proposal may be submitted to Rhonda C. Long, P. O. Box 12985, Austin, Texas, 78711, (512) 463-5505.

The amendment is proposed under Government Code, Chapter 511 which provides the Texas Commission on Jail Standards with the authority to adopt reasonable rules and procedures establishing minimum standards for the construction, equipment, maintenance and operation of county jails.

The statutes that are affected by these rules are Local Government Code, Chapter 351, 351.002 and 351.015.

*§259.138 Holding Cells.*

(a) (No change.)

(b) Remote [Court] Holding Cells. Holding cells that are separate from the facility and utilized for direct court holding **processing or for inmates awaiting transportation. Inmates shall not be held for more than eight hours and the cell shall include the following features and equipment:**

(1)-(7) (No change.)

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on May 24, 1996.

TRD-9607440

Jack E. Crump

Executive Director

Commission on Jail Standards

Earliest possible date of adoption: July 8, 1996

For further information, please call: (512) 463-5505

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## Chapter 261. Existing Construction Rules

### Existing Maximum Security Design, Construction and Furnishing Requirements

#### 37 TAC §261.138

The Commission on Jail Standards proposes an amendment to §261.138, concerning Existing Construction Rules, to delete the reference to court for remote holding cells in construction standards.

Jack E. Crump, executive director, has determined that for the first five year period the section is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the sections.

Mr. Crump also has determined that for each year of the first five years the section is in effect the public benefits anticipated as a result of enforcing the section as proposed will be to provide standards which encompass all types of cells.

There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the sections as proposed.

Comments on the proposal may be submitted to Rhonda C. Long, P. O. Box 12985, Austin, Texas, 78711, (512) 463-5505.

The amendment is proposed under Government Code, Chapter 511 which provides the Texas Commission on Jail Standards with the authority to adopt reasonable rules and procedures establishing minimum standards for the construction, equipment, maintenance and operation of county jails.

The statutes that are affected by these rules are Local Government Code, Chapter 351, 351.002 and 351.015.

#### §261.138 *Holding Cells.*

(a) (No change.)

(b) Remote [Court] Holding Cells. Holding cells that are separate from the facility and utilized for direct court holding **processing or for inmates awaiting transportation. Inmates shall not be held for more than eight hours and the cell** shall include the following features and equipment:

(1)-(7) (No change.)

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on May 24, 1996.

TRD-9607441

Jack E. Crump

Executive Director

Commission on Jail Standards

Earliest possible date of adoption: July 8, 1996

For further information, please call: (512) 463-5505

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## Chapter 265. Admission

### 37 TAC §265.13

*(Editor's Note: The text of the following sections proposed for repeal will not be published. The sections may be examined in the offices of the Commission on Jail Standards or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)*

The Commission on Jail Standards proposes the repeal of §265.13, concerning Admission, to allow adoption of a similar new rule regarding nondiscrimination in a different chapter.

Jack E. Crump, executive director, has determined that for the first five year period the section is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the section.

Mr. Crump also has determined that for each year of the first five years the section is in effect the public benefits anticipated as a result of enforcing the section as proposed will be to allow adoption of equitable treatment standards.

There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the section as proposed.

Comments on the proposal may be submitted to Rhonda C. Long, P. O. Box 12985, Austin, Texas, 78711, (512) 463-5505.

The repeal is proposed under Government Code, Chapter 511 which provides the Texas Commission on Jail Standards with the authority to adopt reasonable rules and procedures establishing minimum standards for the custody, care, and treatment of prisoners.

The statutes that are affected by this rule are Local Government Code, Chapter 351, 351.002 and 351.015.

#### §265.13 *Nondiscriminatory Practices.*

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on May 24, 1996.

TRD-9607442

Jack E. Crump

Executive Director

Commission on Jail Standards

Earliest possible date of adoption: July 8, 1996

For further information, please call: (512) 463-5505

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## Chapter 269. Records and Procedures General

### 37 TAC §269.4

The Commission on Jail Standards proposes new §269.4, concerning Records and Procedures, to establish a rule regarding nondiscrimination of inmates in accordance with federal guidelines.

Jack E. Crump, executive director, has determined that for the first five year period the section is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the section.

Mr. Crump also has determined that for each year of the first five years the section is in effect the public benefits anticipated as a result of enforcing the section as proposed will be to provide equitable treatment standards.

There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the section as proposed.

Comments on the proposal may be submitted to Rhonda C. Long, P. O. Box 12985, Austin, Texas, 78711, (512) 463-5505.

The new rule is proposed under Government Code, Chapter 511 which provides the Texas Commission on Jail Standards with the authority to adopt reasonable rules and procedures establishing minimum standards for the custody, care, and treatment of prisoners.

The statutes that are affected by this rule are Local Government Code, Chapter 351, 351.002 and 351.015.

#### §§269.4 *Nondiscriminatory Practices.*

Each Sheriff/operator's facility operating plans shall prohibit discrimination against inmates because of race, religion, national origin, sex, age, or disabilities. The treatment of inmates with disabilities shall be in accordance with Title 35, CFR, Subpart B and Subpart D regarding nondiscrimination on the basis of disability in government services.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on May 24, 1996.

TRD-9607443

Jack E. Crump

Executive Director

Commission on Jail Standards

Earliest possible date of adoption: July 8, 1996

For further information, please call: (512) 463-5505

## TITLE 40. SOCIAL SERVICES AND ASSISTANCE

### Part XIX. Texas Department of Protective and Regulatory Services

#### Chapter 705. Adult Protective Services

The Texas Department of Protective and Regulatory Services (TDPRS) proposes new sections §§705.1001, 705.3101, and 705.3102, concerning definitions, validation of allegations, and

protective orders, in its Adult Protective Services chapter. New §705.1001 is proposed in a new undesignated head titled "Definitions." New §705.3101 and §705.3102 are proposed in a new undesignated head titled "Family Violence." The purpose of the new sections is to incorporate changes needed because of recent legislation and implementation of the Child and Adult Protective System (CAPS) automated system.

Cindy Brown, acting deputy director for finance, has determined that for the first five-year period the proposed sections will be in effect there will be fiscal implications for state government as a result of enforcing or administering the sections. The effect on state government for the first five-year period the sections will be in effect is an additional cost of \$15,150 for fiscal year (FY) 1996; \$12,750 for FY 1997; \$13,950 for FY 1998; \$12,750 for FY 1999; and \$12,750 for FY 2000. These costs pertain to the agency as a whole and it is anticipated that the Adult Protective Services program will only incur nominal, if any, expense related to these new sections. There will be no fiscal implications for local government.

Ms. Brown also has determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the sections will be an increased awareness of services for victims of family violence. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the proposed sections.

Questions about the content of the proposal may be directed to Carolyn Bivens at (512) 438-3205 in TDPRS's Adult Protective Services section. Written comments on the proposal may be submitted to Supervisor, Rules Unit, Media and Policy Services-202, Texas Department of Protective and Regulatory Services E-205, P.O. Box 149030, Austin, Texas 78714-9030, within 30 days of publication in the *Texas Register*.

#### Definitions

##### 40 TAC §705.1001

The new section is proposed under the Human Resources Code, Title 2, Chapters 40 and 48, which authorizes the department to administer protective services for elderly persons and adults with disabilities.

The new section further implements Chapter 48 of the Human Resources Code.

##### §§705.1001. *Definitions.*

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise:

Abuse—The negligent or willful infliction of injury, unreasonable confinement, intimidation, or cruel punishment with resulting physical or emotional harm or pain by a caretaker, family member, or other individual with whom the elderly or disabled person has an ongoing relationship.

Adult—A person 18 or older, or an emancipated minor.

Aged or elderly person—A person 65 or older.

Allegation—An assertion that an elderly person or an adult with a disability is in a state of or at risk of harm due to abuse, neglect, or exploitation.

**Alleged perpetrator**—A person who is reported to be responsible for the abuse, neglect, or exploitation of an elderly person or an adult with a disability

**Alleged victim**—An elderly person or an adult with a disability who has been reported to adult protective services staff to be in a state of or at risk of abuse, neglect, or exploitation.

**Alleged victim/perpetrator**—An elderly person or an adult with a disability who has been reported to adult protective services staff to be in a state of or at risk of self neglect or suicidal threat.

**Authorized representative**—A person appointed by an alleged victim or a client to speak for him or act on his behalf.

**Capacity to consent**—Having the mental and physical ability to understand the current problems and the services offered and to accept or reject those services knowing the consequences of the decision.

**Caretaker**—A guardian, representative payee, or other person who by act, words, or course of conduct has acted so as to cause a reasonable person to conclude that he has accepted the responsibility for protection, food, shelter, and medical care for an elderly person or an adult with a disability.

**Child and Adult Protective System (CAPS)**—The software application by which Adult Protective Services (APS) and Child Protective Services (CPS) staff document cases.

**Client**—An elderly person or an adult with a disability who has been determined in a validated finding to be in need of protective services.

**Collateral contact**—Contact with a person, other than a principal, who has knowledge of the situation and is a source of information for completion of the investigation or the delivery of services.

**Community care**—Services provided within the client's own home, neighborhood, or community, as alternatives to institutional care. Community care is sometimes called alternate care.

**Designated perpetrator**—A person who has been determined in a validated finding to have abused, neglected, or exploited an elderly person or an adult with a disability.

**Designated victim**—An elderly person or an adult with a disability for which a finding of abuse, neglect, or exploitation has been validated.

**Designated victim/perpetrator**—An elderly person or an adult with a disability for which a finding of self neglect or suicidal threat has been validated.

**Disabled person**—A person with a physical, mental, or developmental disability that substantially impairs the person's ability to provide adequately for the person's care or protection and who is 18 years of age or older or under 18 years of age and who has had the disabilities of minority removed. (Human Resources Code, §48.002)

**Emancipated minor**—A person under 18 years of age who has the power and capacity of an adult. This includes a minor who has had the disabilities of minority removed by a court of law or a minor who, with or without parental consent, has been married. Marriage includes common-law marriage.

**Emotional or verbal abuse**—Any use of verbal communication or other behavior to humiliate, intimidate, vilify, degrade, or threaten with harm.

**Exploitation**—The illegal or improper act or process of a caretaker, family member, or other individual who has an ongoing relationship

with an elderly or disabled person using the resources of the elderly or disabled person for monetary or personal benefit, profit, or gain without the informed consent of the elderly or disabled person. (Human Resources Code, §48.002)

**Family violence**—An act by a member of a family or household against another member of the family or household that is intended to result in physical harm, bodily injury, assault, or sexual assault or that is a threat that reasonably places the member in fear of imminent physical harm, bodily injury, assault, or sexual assault, but does not include defensive measures to protect oneself. (Texas Family Code, §71.01(b)(2))

**Institution**—An establishment that furnishes, in one or more facilities, food and shelter to four or more persons who are unrelated to the proprietor of the establishment and provides minor treatment under the direction and supervision of a physician licensed by the Texas State Board of Medical Examiners, or other services that meet some need beyond the basic provision of food, shelter, and laundry. (Health and Safety Code, §242.002(5))

**>Least restrictive alternative**—An action or service that protects a client while allowing personal autonomy to the fullest degree possible.

**Neglect**—The failure to provide for one's self the goods or services, including medical services, which are necessary to avoid physical or emotional harm or pain or the failure of a caretaker to provide the goods or services. (Human Resources Code, §48.002)

**Personal care facility**—An establishment, including a board and care home, that furnishes, in one or more facilities, food and shelter to four or more persons who are unrelated to the proprietor of the establishment and provides personal care services. (Health and Safety Code, §247.002(3))

**Primary worker**—The APS worker assigned primary responsibility for a case and serves the area where the client is located.

**Principal**—The alleged victim/client or perpetrator in an APS case.

**Protective services**—The services furnished by the department or by a protective services agency to an elderly or disabled person who has been determined to be in a state of abuse, exploitation, or neglect. These services may include social casework, case management, and arranging for psychiatric and health evaluation, home care, day care, social services, health care, and other services consistent with the Human Resources Code, Chapter 48. (Human Resources Code, §48.002)

**Provider agency (contractor)**—An agency that has contracted with the Texas Department of Protective and Regulatory Services to provide authorized services for adult protective service clients.

**Reporter**—A person who makes a referral to adult protective services staff about a situation of alleged abuse, neglect, or exploitation of an elderly person or an adult with a disability.

**Secondary worker**—A caseworker who assists the primary worker by conducting interviews, researching records, or providing other assistance in a case. This caseworker has access to the electronic case file and is able to perform any tasks for that case in CAPS that a primary worker can perform.

**Sexual abuse**—Any involuntary or nonconsensual sexual conduct that would constitute an offense under the Texas Penal Code, §21.08 or the Texas Penal Code, Chapter 22. (Human Resources Code, §48.002).

Sustained perpetrator —A person for which at least one validated finding of abuse, neglect, or exploitation of an elderly person or an adult with a disability has been sustained by an administrative review or a release hearing.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on May 29, 1996.

TRD-9607455

C. Ed Davis

Deputy Director, Legal Services

Texas Department of Protective and Regulatory Services

Proposed date of adoption: August 15, 1996

For further information, please call: (512) 438-3765

**40 TAC §705.3101, §705.3102**

The new sections are proposed under the Human Resources Code, Title 2, Chapters 40 and 48, which authorizes the department to administer protective services for the elderly.

The new sections implement Chapter 54, Human Resources Code and Amendment by Acts 1995, 74th Legislature, Chapter 559, §1 found in the note preceding the Human Resources Code, Chapter 40.

§§705.3101. *Validation of Allegations.*

(a) When Texas Department of Protective and Regulatory Services (TDPRS) staff validate an allegation that an elderly person or an adult with a disability is a victim of family violence as specified in the Texas Family Code, §71.01(b)(2), the adult protective services caseworker:

- (1) documents the findings; and

(2) provides the victim with written information in English or Spanish, as appropriate, concerning community services that are available.

(b) Statistical compilations of the documented findings are included in TDPRS's annual report.

§§705.3102. *Protective Orders.*

When Texas Department of Protective and Regulatory Services (TDPRS) staff validate an allegation that an elderly person or an adult with a disability is a victim of family violence as specified in the Texas Family Code, §71.01(b)(2), TDPRS may apply for a protective order to protect the victim. Before filing the protective order, the adult protective services caseworker contacts the victim and a nonabusive adult member of the household, if available:

(1) to notify them of TDPRS's intent to file a protective order; and

(2) to request assistance in developing a safety plan for the victim and any nonabusive household members.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on May 29, 1996.

TRD-9607456

C. Ed Davis

Deputy Director, Legal Service,

Texas Department of Protective and Regulatory Services

Proposed date of adoption: August 15, 1996

For further information, please call: (512) 438-3765

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# ADOPTED RULES

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An agency may take final action on a section 30 days after a proposal has been published in the *Texas Register*. The section becomes effective 20 days after the agency files the correct document with the *Texas Register*, unless a later date is specified or unless a federal statute or regulation requires implementation of the action on shorter notice.

If an agency adopts the section without any changes to the proposed text, only the preamble of the notice and statement of legal authority will be published. If an agency adopts the section with changes to the proposed text, the proposal will be republished with the changes.

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## **TITLE 31. NATURAL RESOURCES AND CONSERVATION**

### **Part II. Texas Parks and Wildlife Department**

#### **Chapter 51. Executive**

The Texas Parks and Wildlife Commission in a regularly scheduled public hearing May 9, 1996, adopted repeal of §§51.1-51.9 and adopted new §§51.1-51.4, concerning procedures for adoption of rules, without changes to proposed text as published in the April 5, 1996 issue of the *Texas Register* (20 TexReg 2959).

Procedures for adoption of rules are codified in Government Code, Chapter 2001, Subchapter B. State agencies are directed to prescribe the form and procedures for a petition for rulemaking under provisions of §2001.021, however the procedures for rulemaking are not specified.

The repeal of existing sections and adoption of new rules remove redundant sections from the Texas Administrative Code and provide a clear process through which petitions for rulemaking may be submitted to the Commission.

The department received one comment concerning the proposed rules. One respondent at the public hearing requested the Commission not adopt the repeal and proposed new rules because such an action would inhibit the access of citizens to the regulatory process. The department received no other comment concerning the repeal of rules and adopted new rules.

The Commission's adoption of provisions for petitions for rulemaking represents a recodification of existing sections with no substantive change. Citizens access to the regulatory process or ability to file petitions for rulemaking are not affected by this recodification.

#### **Easement Requests and Unauthorized Easement Activity**

##### **31 TAC 51.1-51.9**

The repeals are adopted under Government Code, Chapter 2001, Subchapter B.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on May 28, 1996.

TRD-9607401

Bill Harvey

Regulatory Coordinator

Texas Parks and Wildlife Department

Effective date: June 18, 1996

Proposal publication date: April 5, 1996

For further information, please call: (512) 389-4642

##### **31 TAC §§51.1-51.4**

The new sections are adopted under Government Code, Chapter 2001, Subchapter B.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on May 28, 1996.

TRD-9607400

Bill Harvey

Regulatory Coordinator

Texas Parks and Wildlife Department

Effective date: June 18, 1996

Proposal publication date: April 5, 1996

For further information, please call: (512) 389-4642

#### **Procedures for Public Hearings Before the Commission**

##### **31 TAC 51.71-51.79**

The Texas Parks and Wildlife Commission in a regularly scheduled public hearing, May 9, 1996, adopted repeal §§51.71-51.79, concerning procedures for public hearings before the Commission, without changes to proposed text as published in the April 5, 1996 issue of the *Texas Register* (20 TexReg 2960).

Parks and Wildlife Code, §11.0151 directs the Commission to develop and implement policies that will provide the public with a reasonable opportunity to speak. The current regulations concerning public hearings were enacted prior to the May 1985 adoption of a Commission policy regarding public hearings. This policy adoption renders §§51.71-51.79 redundant.

The repeals remove redundant sections from the Texas Administrative Code.



The department received one comment concerning the proposed rule. One respondent at the public hearing requested the Commission not adopt the repeal because such an action would inhibit the ability of citizens to speak before the Commission to provide public comment.

The department received no other comment concerning the proposed repeals.

The Commission's repeal of §§51.71-51.79 in no way prohibits citizens from making public comment before the Commission. The rights of citizens to make comment are codified in Parks and Wildlife Code, Chapters 11 and 61.

The repeals are proposed under Parks and Wildlife Code, §11.0151, which gives the commission authority to adopt policies relating to public hearings.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on May 28, 1996.

TRD-9607403  
Bill Harvey  
Regulatory Coordinator  
Texas Parks and Wildlife Department  
Effective date: June 18, 1996  
Proposal publication date: April 5, 1996  
For further information, please call: (512) 389-4642

## Chapter 55. Law Enforcement

The Texas Parks and Wildlife Commission in a regularly scheduled public hearing, May 9, 1996, adopted repeal of §§55.61-55.74, concerning Deputy Game Warden Commissions, and new §§55.61-55.64, concerning Deputy and Special Game Warden Commissions, without changes to proposed text as published in the April 5, 1996 issue of the *Texas Register* (20 TexReg 2961).

The repeals and new sections consolidate two existing auxiliary game warden programs. The repeals and new sections as adopted remove redundant sections from the Texas Administrative Code.

The new rules set forth the regulations for the qualifications of deputy game wardens, and the conduct and duties of deputy game wardens and special game wardens.

The department received no comment concerning the proposed repeals and new rules.

### Subchapter C. Deputy Game Warden Commission

#### 31 TAC 55.61-55.74

The repeals are adopted under Parks and Wildlife Code, §11.020, which gives the commission authority to adopt rules relating to the qualifications of deputy game wardens, and the conduct and duties of deputy game wardens.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on May 28, 1996.

TRD-9607406  
Bill Harvey  
Regulatory Coordinator  
Texas Parks and Wildlife Department  
Effective date: June 18, 1996  
Proposal publication date: April 5, 1996  
For further information, please call: (512) 389-4642

### Subchapter C. Deputy and Special Game Warden Commissions

#### 31 TAC 55.61-55.64

The new sections are adopted under Parks and Wildlife Code §§11.020 - 11.021, which give the commission authority to adopt rules relating to the qualifications of deputy game wardens, and the conduct and duties of deputy game wardens and special game wardens.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on May 28, 1996.

TRD-9607407  
Bill Harvey  
Regulatory Coordinator  
Texas Parks and Wildlife Department  
Effective date: June 18, 1996  
Proposal publication date: April 5, 1996  
For further information, please call: (512) 389-4642

### Subchapter H. Special Game Warden Program

#### 31 TAC 55.401, 55.403, 55.405, 55.407, 55.409, 55.411

The Texas Parks and Wildlife Commission in a regularly scheduled public hearing, May 9, 1996, adopted repeal of §§55.401, 55.403, 55.405, 55.407, 55.409, and 55.411, concerning Special Game Warden Program, without changes to proposed text as published in the April 5, 1996 issue of the *Texas Register* (20 TexReg 2962).

The repeals allow consolidation of two existing game warden programs into a single set of regulations.

The repeals as adopted remove redundant sections from the Texas Administrative Code.

The department received no comment concerning the proposed repeals.

The repeals are adopted under Parks and Wildlife Code, §11.0201, which gives the commission authority to adopt rules relating to the conduct and duties of special game wardens.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on May 28, 1996.

TRD-9607408  
Bill Harvey  
Regulatory Coordinator

Texas Parks and Wildlife Department  
Effective date: June 18, 1996  
Proposal publication date: April 5, 1996  
For further information, please call: (512) 389-4642

## Chapter 57. Fisheries

### Private Water Management

#### 31 TAC 57.181-57.184

The Texas Parks and Wildlife Commission in a regularly scheduled public hearing, May 9, 1996, adopted repeal of §§57.181-57.184, concerning Private Water Management, without changes to proposed text as published in the April 5, 1996 issue of the *Texas Register* (20 TexReg 2963).

Parks and Wildlife Code §12.014 authorizes the Commission to set fees for stocking of fish in private waters. However, Chapter 52, (concerning Stocking Policy) sets guidelines for stocking of fish in private waters for investigation, propagation, distribution, scientific, educational or other valid management purposes. This policy negates the need for §§57.181-57.184.

The repeals remove redundant sections from the Texas Administrative Code.

The department received no comment concerning the proposed repeals.

The repeals are adopted under Parks and Wildlife Code, §12.014 which gives the commission authority to set fees for stocking of fish in private waters.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on May 28, 1996.

TRD-9607420  
Bill Harvey  
Regulatory Coordinator  
Texas Parks and Wildlife Department  
Effective date: June 18, 1996  
Proposal publication date: April 5, 1996  
For further information, please call: (512) 389-4642

## Chapter 65. Wildlife

### Subchapter F. Permits to Control Protected Species

#### 31 TAC 65.151-65.157

The Texas Parks and Wildlife Commission in a regularly scheduled public hearing, May 9, 1996, adopted repeal of §§65.151-65.157, concerning Permits to Control Protected Species, without changes to proposed text as published in the April 5, 1996 issue of the *Texas Register* (20 TexReg 2980).

The provisions for issuing permits for controlling protected species are codified in Parks and Wildlife Code, Chapter 43, Subchapter H, §§43.151-43.157. This codification renders these TAC sections redundant.

The repeals remove redundant sections from the Texas Administrative Code.

The department received no comment concerning the proposed repeals.

The repeal of sections §§65.151-65.157 is adopted under authority of Parks and Wildlife Code, §§43.151-43.157.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on May 28, 1996.

TRD-9607402  
Bill Harvey  
Regulatory Coordinator  
Texas Parks and Wildlife Department  
Effective date: June 18, 1996  
Proposal publication date: April 5, 1996  
For further information, please call: (512) 389-4642

## TITLE 37. PUBLIC SAFETY AND CORRECTIONS

### Part VI. Texas Department of Criminal Justice

#### Chapter 151. General Provisions

##### 37 TAC §151.55

The Texas Department of Criminal Justice adopts new §151.55, concerning the sale and disposal of surplus agricultural goods and surplus agricultural personal property, without changes to the proposed text as published in the March 26, 1996, issue of the *Texas Register* (21 TexReg 2457).

The new section will increase accountability for the disposal of surplus agricultural goods and agricultural personal property.

No comments were received regarding adoption of the new section.

The new section is adopted under Government Code, §497.034, which specifically authorizes this section and §492.013, which grants rulemaking authority to the Board.

This agency hereby certifies that the rules as adopted have been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on May 29, 1996.

TRD-9607439  
Carl Reynolds  
General Counsel  
Texas Department of Criminal Justice  
Effective date: June 19, 1996  
Proposal publication date: March 26, 1996  
For further information, please call: (512) 463-9693

## TITLE 40. SOCIAL SERVICES AND ASSISTANCE

## Part II. Texas Rehabilitation Commission

### Chapter 106. Contract Administration

#### Subchapter A. Acquisition of Client Goods and Services

##### **40 TAC §§106.1–106.36**

The Texas Rehabilitation Commission (TRC) adopts new §§106.1-106.36, concerning Chapter 106 Contract Administration, Subchapter A-Acquisition of Client Goods and Services. Section 106.8 and §106.17 are adopted with changes to the proposed text published in the April 19, 1996, issue of the *Texas Register* (21 TexReg 3422). The remaining sections are adopted without changes and will not be republished.

These adopted rules are to implement the Commission's contracting authority contained in Title 7, §111.052, Texas Human Resource Code, and to formalize by rule that client purchases are exempt from the provisions of the Texas Government Code §§2155.001 et. seq. as provided for in Attorney General Opinions Number 0-2771 (1940), Number WW-1229 (1961), Number M. 91 (1967), and Number H-459 (1974).

The following comments were received regarding §106.8: Comments were received recommending that the Title to §106.8 be changed to track EDGAR, 34 C.F.R. §80.36, which governs contracting with small and minority firms, with women's business enterprises, and persons with disabilities, as 34 C.F.R. §80.36 governs. The Commission agrees. The title to §106.8 will thus read: "Small businesses, and businesses owned by minorities, women, and persons with disabilities."

The following comments were received regarding §106.17: Comments were received recommending that in §106.17, a sentence which reads "After award, such information is generally subject to public disclosure," be changed to read "After bid opening, such information is generally subject to public disclosure." The Commission agrees. This change would conform TRC rules with the policy of the General Services Commission disclosure after bid opening.

No comments were received regarding the remaining sections.

The new rules are adopted under Texas Human Resource Code Annotated, Title 7, §111.018, which provides the Texas Rehabilitation Commission with the authority to promulgate rules consistent with Title 7, Texas Human Resources Code.

The Texas Human Resources Code, Chapter 111, Title 7, §111.052, is affected by these new rules.

*§§106.8. Small Businesses and Businesses Owned by Minorities, Women, and Persons with Disabilities.*

It is the policy of the Commission to ensure that small businesses and businesses that are at least 51% owned by minority group members, women, and persons with disabilities have equal opportunity to compete for and to be selected for the award of contracts. The Commission should take all necessary affirmative steps to ensure that such businesses have an opportunity to obtain Commission business. In addition, the Commission must direct its contractors to take such affirmative steps.

*§§106.17. Confidentiality and Release of Information.*

Prior to the award of a contract, it is the Commission's policy to treat as confidential any information relating to the procurement that has not been publicly released. While competition is in progress, all bids, offers, and proposals are not subject to public disclosure. Employees of the Commission may not refer to the content of another bid, offer, and proposal, give information about other bids, offers, and proposals, or state whether there are other bids, offers, and proposals. After bid opening such information is generally subject to public disclosure.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on May 28, 1996.

TRD-9607429

Charles W. Schiesser

General Counsel

Texas Rehabilitation Commission

Effective date: June 18, 1996

Proposal publication date: April 19, 1996

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# OPEN MEETINGS

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Agencies with statewide jurisdiction must give at least seven days notice before an impending meeting. Institutions of higher education or political subdivisions covering all or part of four or more counties (regional agencies) must post notice at least 72 hours before a scheduled meeting time. Some notices may be received too late to be published before the meeting is held, but all notices are published in the ***Texas Register***.

**Emergency meetings and agendas.** Any of the governmental entities listed above must have notice of an emergency meeting, an emergency revision to an agenda, and the reason for such emergency posted for at least two hours before the meeting is convened. All emergency meeting notices filed by governmental agencies will be published.

**Posting of open meeting notices.** All notices are posted on the bulletin board at the main office of the Secretary of State in lobby of the James Earl Rudder Building, 1019 Brazos, Austin. These notices may contain a more detailed agenda than what is published in the ***Texas Register***.

**Meeting Accessibility.** Under the Americans with Disabilities Act, an individual with a disability must have an equal opportunity for effective communication and participation in public meetings. Upon request, agencies must provide auxiliary aids and services, such as interpreters for the deaf and hearing impaired, readers, large print or braille documents. In determining type of auxiliary aid or service, agencies must give primary consideration to the individual's request. Those requesting auxiliary aids or services should notify the contact person listed on the meeting summary several days prior to the meeting by mail, telephone, or RELAY Texas (1-800-735-2989).

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State Office of Administration Hearings

Monday, July 8, 1996, 9:00 a.m.

7800 Shoal Creek Boulevard

Austin

Utility Division

AGENDA:

A hearing on the merits will be held at the above date and time in SOAH Docket Number 473-96-0937-application of Southwestern Bell Telephone company for approval of new business optional calling plan options pursuant to PUC Substantive Rule 23.26 (PUC Docket Number 14892)

Contact: J. Kay Trostle, P.O. Box 13025, Austin, Texas 78711-3025, (512) 936-0728.

Filed: May 31, 1996, 3:43 p.m.

TRD-9607646

Texas Boll Weevil Eradication Foundation

Monday, June 3, 1996 10:30 a.m.

3101 Oldham Lane

Abilene, Texas

Opening Remarks and Introductions

Adjourn for Executive Sessions

Executive Session: To consult with Attorney in Accordance with Tex Govt. Code Ann., Sec. 551.071

Adjourn Executive Session

Reconvene Board Meeting

Discussion & Action: On Executive Session

Discussion: Other Business

Adjourn

Reason For Emergency : Immediate action is required due to reasonably unforeseen developments in pending litigation.

Contact:: Mr. Frank Myer, P.O. Box 5089, Abilene, Texas 79608-5089, 1

Filed: May 31, 1996, 2:55 p.m

TRD-9607635

Texas Commission on Fire Protection

Thursday-Friday, June 20-21, 1996, 9:00 a.m.

12675 North Research

Austin

AGENDA

I. The budget and strategic plan subcommittees will meet and may develop recommendations to be presented to the full commission, including, but not limited to, revisions to the strategic plan, changes in budget priorities and the legislative appropriations request. The subcommittees may meet separately or together.

II. Discussion and possible action regarding supplements to the self-evaluation report previously submitted to the Sunset Commission.

III. Discussion and possible action regarding revisions to the strategic plan.

IV. Discussion and possible action regarding agency legislative appropriations request.

V. Discussion and possible action on future meeting dates.

Contact: Carol Menchu, 12675 North Research, Austin, Texas 78759, (512) 918-7100.

Filed: June 3, 1996, 9:32 a.m.

TRD-9607663

Thursday-Friday, June 20-21, 1996, 9:00 a.m.

12675 North Research

Austin

AGENDA

Approval of previous minutes. Overview and staff briefing of agenda. New matters from committee members and public to be placed on future agenda. Report of Testing Committee. Reports from staff. Report on April meeting of IFSAC. Discussion/possible action regarding commission certification requirements in all disciplines; changes to Emergency Care Attendant certification: changes to 37 TAC Chapter 439; requirements for higher levels of certification for all disciplines; public comments concerning rules pending before the Texas Commission on Fire Protection; future meeting dates agenda items, and locations.

Contact: Carol Menchu, 12675 North Research, Austin, Texas 78759, (512) 918-7100.

Filed: June 3, 1996, 9:32 a.m.

TRD-9607662

Saturday, June 22, 1996, 9:00 a.m.

12675 North Research

Austin

AGENDA

Approval of minutes. New matters from committee members and the public for future committee meetings. Election of officers. Discussion and possible action on: recommendations from joint meeting with SFFMA; 37 TAC Chapter 471; 37 TAC Chapter 473; 37 TAC Chapter 476; 37 TAC Chapter 478; 37 TAC Chapter 476; proposed changes concerning individuals accredited by IFSAC. Report on April IFSAC meeting; from staff on status of revisions to NFPA standards. Discussion and possible action on future meeting dates.

Contact: Carol Menchu, 12675 North Research, Austin, Texas 78759, (512) 918-7100.

Filed: June 3, 1996, 9:32 a.m.

TRD-9607661

Texas Funeral Service Commission

Thursday, June 6, 1996, 9:00 a.m.

510 South Congress Avenue, Suite 206

Austin

Commission Meeting

AGENDA:

1. Call to Order and Roll Call
2. Executive session to consider the appointment, employment, and duties of the Executive Director, pursuant to Texas Government Code, §551.074, including interviews with selected applicants

3. Return to open session for further discussion and possible action involving the appointment, employment, and duties of the Executive Director pursuant to Texas Government Code, §551.074.

4. Adjourn

Contact: Marc Allen Connelly, 510 South Congress Avenue, Austin, Texas 78704, (512) 479-7222.

Filed: May 29, 1996, 11:53 a.m.

TRD-9607473

Friday, June 7, 1996, 10:00 a.m.

510 South Congress Avenue, Suite 206

Austin

Commission Meeting

AGENDA:

1. Call to order and Roll Call
2. Approval of the minutes of the January 31 st., March 21st, 1996 Commission Meetings.
3. Reports from committees: Finance, Personnel, Education, Complaint Review, Ad-hoc
4. Public Comment
5. Approval of Licensing wall certificates; discussion and possible action on distribution ,costs and fees.
6. Presentation and discussion from Funeral Directing program by the Dallas Institute of Funeral Services.
7. Discussion, Presentation of information, and possible action on Commission administered funeral director and embalmer testing.
8. Appearance by Scott Morrow and discussion regarding an exception to the application of and requirements for the Provisional Licensing —program under Texas Civil Statutes, Article 4582b, Section 3 (D) and 22 TAC Section 203.6 of the Commission Rules.
9. Discussion and possible action on the selective enforcement of the mandatory notice required by Texas Civil Statutes, Article 4582b, Section 1 (S), and contained (item #62) on the approved Funeral Establishment Inspection checklist.
10. Appearance by Mike Mendez and discussion regarding an exception to the application of and reciprocity requirements contained in Texas Civil Statutes, Article 4582b, Section 3(F) and 22 TAC SECTION 203.23(B) of the Commission Rules.

11. Discussion and passible action on a petition by Brackettville Funeral Home for an exemption regarding the location of as retained records as provided by 22 TAC Section 203.23 (b) of the Commission Rules.

12. Discussion and possible action on a petition by Harper-Talasek Funeral Home for an exemption regarding the location of retained records as provided by 22 TAC Section 203.23 (b) of the Commission Rules.

13. Discussion and possible action on changes to be proposed regarding 22 TAC Section 203.4 oft the Commission Rules.

14. Discussion and possible action involving the appointment, employment, and duties of the Executive Director pursuant to Texas Government Code, Section 551.074.

15. Setting the next Commission Meeting, exit interviews, committee meetings.

16. Adjourn.

Contact: Mac Allen, 510 South Congress, Austin, Texas 78704, (512) 479-7222.

Filed: May 9, 1996, 1:32 p.m.

TRD-9607477

Office of the Governor

Tuesday, June 11, 1996, 9:00 a.m.

State Capitol Extension, Room E1.028

Austin

Governor's Advisory Task Force on Faith-Based Community Service Groups

AGENDA:

1. Call to Order
2. Welcome from Chairman
3. Mission of Task Force
4. Need for Task Force

5. Legal/Legislative Overview
6. Discussion of obstacles
7. Identification of possible solutions
8. Discussion of goals for next meeting

#### 9. Adjourn

Contact: Stuart Bowen, Jr., 1100 San Jacinto, Fourth Floor, Austin, Texas 78701, (512) 463-1788.

Filed: May 31, 1996, 2:37 p.m.

TRD-9607628

Texas Department of Health

Monday, June 10, 1996, 10:30 a.m.

Moreton Building, Room M-739, 1100 West 49th Street

Austin

Osteoporosis Advisory Committee (OAC)

#### AGENDA:

To committee will discuss and possibly act on: introductions (members, guests, and facilitator); meeting format; introduction to the Texas Department of Health; overview of Osteoporosis Work Group Efforts, Suma Productions); development of OAC mission/vision; public comments; and next meeting date.

Contact: Veronda Durden, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7111, Ext. 2053.

Filed: May 31, 1996, 9:51 a.m.

TRD-9607585

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Texas House of Representatives

Thursday, June 27 1996, 10:00 a.m.

Capitol Extension, 15th and Congress, Room E2.016

Austin

House Committee on Ways and Means Subcommittee on Franchise Tax Avoidance

#### AGENDA:

#### I. Call to Order and Roll Call

#### II. Roll Call

III. New Business-Interim Charge: Study features of the franchise tax that enable companies to minimize or avoid tax liability, including the conversion to non-corporate business forms and changing location of the payor. Committee will take public testimony.

#### IV. Old Business

#### V. Adjournment.

Contact: Chas Semple, P.O. Box 2910, Austin, Texas 78703, (512) 463-0822.

Filed: May 31, 1996, 11:37 a.m.

TRD-9607613

Texas Department of Housing and Community Affairs

Friday, June 7, 1996, 8:30 a.m.

507 Sabine Street, Room 437

Austin

Manufactured Housing

#### AGENDA

The Manufactured Housing Committee of the Board of Texas Department of Housing and Community Affairs will meet to consider and possibly act on: Manufactured Housing Cases: Ambrose Gerner Jr., Mobile Home City Inc., MHD 1995001260D; Kevin Bresinger doing business as KB Mobile Home Service, MHD1995001404C; A&A Super Toters, MHD1995001565C; Joseph Hyatt doing business as Joe's Mobile Home Transporting, MHD1996000281C; Leslie Roshong doing business as Arrow Mobile Home Movers, MHD1994000726D, Williams Mobile Homes, MHD1995000133T; All American Home Movers Inc. MHD1995001706C; Operations Plan for Manufactured Home Installation Inspections; Executive Directors Report; Personnel Matters Regarding Duties and Responsibilities of Particular Employees in Relationship to budget under §551.074; Act in Open Session on items acted upon in Executive Session; Adjourn.

Contact: L. P. Manley, 507 Sabine, #900, Waller Creek Office Building, Austin, Texas 78701, (512) 475-3934.

Filed: May 29, 1996, 4:14 p.m.

TRD-9607505

Friday, June 7, 1996, 10:00 a.m.

507 Sabine Street, Room 437

Austin, Texas

Programs Committee

#### AGENDA

The Programs Committee of the Board of Texas Department of Housing and Community Affairs will meet to consider and possibly act on: Minutes of March 8, 1996 and March 25, 1995 meeting; presentation, discussion and approval of housing trust fund contract amendment to revise the affordability period and to increase and clarify the prior approval of funding to the City of Dallas; Housing Trust Fund recommendations for funding awards; award to home of Your own Coalition; final submission of strategic plan; HOME

program deobligation of Metro affordable loan; restructure of loan to affordAmerica, Inc.; amending down payment assistance program for availability to borrowers utilizing local issues of state ceiling cap; report items; executive session — personnel matters regarding duties/responsibilities of particular employees in relation to budget under sec. 551.074, Texas Government Code; Act in open session on items acted upon in executive session; Adjourn.

Contact: L. P. Manley, 507 Sabine, #900, Waller Creek Office Building, Austin, Texas 78701, (512) 475-3934.

Filed: May 29, 1996, 4:58 p.m.

TRD-9607508

Friday, June 7, 1996, 10:00 a.m.

507 Sabine Street, Room 437

Austin

Programs Committee

revised agenda

#### AGENDA

The Programs committee of the Board of Texas Department of Housing and Community Affairs will meet to consider and possibly act on: Repeal of HOME Program rules for previous years; policies for HOME/LIHTC combination program; rental project assistance award to Brenham Rural Housing, Ltd.; development loan and down payment assistance awards to M&R Concepts and the City of Tyler.

Contact: L. P. Manley, 507 Sabine, #900, Waller Creek Office Building, Austin, Texas 78701, (512) 475-3934.

Filed: May 30, 1996, 1:27 p.m.

TRD-9607523

Friday, June 10, 1996, 8:00 a.m.

507 Sabine Street, Room 437

Austin

Board

#### AGENDA

The Board of Texas Department of Housing and Community Affairs will meet to consider and possibly act on: minutes of April 29, 1996 meeting; report from Finance committee — Mutual Benefit; conversion to new interest rate; program guidelines for Colonias bond issue and new money issue; selection of underwriting team for colonias and new money issue, refundings and commercial paper; remarketing agreement; amendments to commercial paper program;



transfer of RTC account funds; approval of trustee; report from programs committee — housing trust fund contract amendment; award of housing trust funds; award to home of your own coalition; strategic plan; HOME program-deobligation of Metro affordable loan; repeal of HOME rules from previous years; award to Brenham rural housing; amending down payment assistance program; qualified allocation plan for low income housing tax credit program and repeal of 1995A rules; MHD1996000281C, MHD1994000726D, MHD1995001404C, MHD1995001565C, MHD1996000281C, MHD1994000726D, MHD1995000133T, MHD1995001706C, operations plan; outside contract with Powell, Goldstein, Frazier & Murphy; contract with Minter, Joseph & Thornhill. Executive session — personnel matters regarding duties in relationship to particular employees in relationship to budget under Sec. 551.074. Act in open session on items acted upon in executive session; adjourn.

Contact: L. P. Manley, 507 Sabine, #900, Waller Creek Office Building, Austin, Texas 78701, (512) 475-3934.

Filed: May 31, 1996, 4:29 p.m.

TRD-9607649

State Independent Living Council

Friday, June 7, 1996, 11:00 a.m.

8610 Broadway, Suite 420

San Antonio

Marketing Committee Teleconference

AGENDA:

Statewide marketing campaign discussion

Contact: Brenda Shaw, 8610 Broadway, Suite 420, San Antonio, Texas 78217, 1 (800) 863-0908.

Filed: May 29, 1996, 11:54 a.m.

TRD-9607478

Texas Department of Insurance

Friday, June 14, 1996, 9:00 a.m.

State Office of Administrative Hearings, 300 West 15th Street, Suite 502

Austin

AGENDA:

In the matter of Ricky D. Lewelling

Contact: Bernice Ross, 333 Guadalupe Street, Mail Code #113-2A, Austin, Texas 78701, (512) 463-6328.

Filed: May 31, 1996, 10:37 a.m.

TRD-9607588

Tuesday, June 18, 1996, 1:00 p.m.

State Office of Administrative Hearings, 300 West 15th Street, Suite 502

Austin

AGENDA:

To consider whether disciplinary action should be taken against Shad Michael Daily, Austin and Waco, Texas, who holds a Group I, Legal Reserve Life Insurance Agent's License issued by the Texas Department of Insurance.

Contact: Bernice Ross, 333 Guadalupe Street, Mail Code #113-2A, Austin, Texas 78701, (512) 463-6328.

Filed: May 31, 1996, 10:37 a.m.

TRD-9607590

Wednesday, June 19, 1996, 9:00 a.m.

State Office of Administrative Hearings, 300 West 15th Street, Suite 502

Austin

AGENDA:

Hearing to consider the Appeal of Travelers Indemnity Company of Connecticut from a decision of the Texas Workers' Compensation Insurance Facility.

Contact: Bernice Ross, 333 Guadalupe Street, Mail Code #113-2A, Austin, Texas 78701, (512) 463-6328.

Filed: May 31, 1996, 10:37 a.m.

TRD-9607591

Thursday, June 20, 1996, 1:00 p.m.

State Office of Administrative Hearings, 300 West 15th Street, Suite 502

Austin

AGENDA:

Hearing to consider whether disciplinary action should be taken against Anastacio Stacy Lopez, Austin, Texas, who holds a Group I, Legal Reserve Life Insurance Agent's License and a Local Recording Agent's License issued by the Texas Department of Insurance (reset from May 28, 1996).

Contact: Bernice Ross, 333 Guadalupe Street, Mail Code #113-2A, Austin, Texas 78701, (512) 463-6328.

Filed: May 31, 1996, 10:37 a.m.

TRD-9607592

Texas Juvenile Probation Commission

Thursday, June 6, 1996, 9:00 a.m.

John H. Reagan Building, room 109, 105 West 15th Avenue

Austin

Construction Bond Committee

AGENDA:

Call to order; excuse absences; review, consideration, and possible approval of proposals submitted for the \$37.5 million construction bond funds; review, consideration, and possible approval of the TDCJ contract for Management services; public comment; and adjourn.

Contact: Vicki Wright, 4900 North Lamar Boulevard, Austin, Texas 78751, (512) 424-6682.

Filed: May 29, 1996, 4:12 p.m.

TRD-9607501

Friday, June 7, 1996, 8:00 a.m.

John H. Reagan Building, Room 106, 105 West 15th Avenue

Austin

Budget Committee

AGENDA:

Call to order; excuse absences; Approval of: Revision to the FY 1996 Administrative Budget; FY 1997 Administrative Budget; State Aid Allocation and Methodology, State Aid Progressive Sanctions Allocation and Methodology; Community Corrections allocation and Methodology; Community Corrections Progressive Sanctions Allocation and Methodology; Border Project Allocations and guidelines; Diversionary Placement Grants Allocation and Guidelines; Challenge Grants Allocation and Guidelines; discussion and approval of TJPC's 1997 Commitment Performance Targets by juvenile probation departments; review of preliminary Legislative Budget Request; public comments, and adjourn.

Contact: Vicki Wright, 4900 North Lamar Boulevard, Austin, Texas 78751, (512) 424-6682.

Filed: May 29, 1996, 4:12 p.m.

TRD-9607502

Friday, June 7, 1996, 9:00 a.m.

John H. Reagan Building, Room 106, 105 West 15th Avenue

Austin

Program and Planning Committee

AGENDA:

Call the meeting to order; excuse absences; discussion and approval of TJPC's 1996-2001 Strategic Plan; public comments; adjourn.

Contact: Vicki Wright, 4900 North Lamar Boulevard, Austin, Texas 78751, (512) 424-6682.

Filed: May 29, 1996, 4:13 p.m.

TRD-9607503

Friday, June 7, 1996, 10:00 a.m.

John H. Reagan Building, Room 106, 105 West 15th Avenue

Austin

Internal Audit Committee

AGENDA:

Call the meeting to order; excuse absences; review, consideration and possible approval of the Legal Unit's Internal Audit; public comment; adjourn.

Contact: Vicki Wright, 4900 North Lamar Boulevard, Austin, Texas 78751, (512) 424-6682.

Filed: May 29, 1996, 4:14 p.m.

TRD-9607504

Friday, June 7, 1996, 10:30 a.m.

John H. Reagan Building, Room 106, 105 West 15th Avenue

Austin

Board

AGENDA:

Call the meeting to order; excuse absences, approval of minutes; review, consideration and possible approval of proposals submitted for the \$37.5 million construction bond funds, review, consideration and possible approval of the TDCJ contract for management services; approval of: Revision to the FY 1996 Administrative Budget, FY 1997 Administrative Budget, State Aid Allocation and Methodology, State Aid Progressive Sanctions Allocation and Methodology, Community Corrections Allocation and Methodology, Community Corrections Progressive Sanctions allocation and methodology, Border Project Allocations and guidelines, Diversionary Placement Grants allocation and guidelines, Challenge Grants allocations and guidelines, discussion and approval of TJPC's 1997 Commitment Performance targets by juvenile probation departments; Review of preliminary Legislative Budget request; Review, consideration and approval of the Legal Unit's Internal audit; discussion and approval of TJPC's 1996-2001 Strategic Plan; discussion and adoption of the Community Corrections Assistance Program Rules and the Standards for Juvenile Detention Facilities; TJPC/TYC Joint Committee Report-Approval of Model Policy Guidelines, Buffalo Soldier's Update; Director's Report, Public Comment, Schedule, Next Meeting, and adjourn.

Contact: Vicki Wright, 4900 North Lamar Boulevard, Austin, Texas 78751, (512) 424-6682.

Filed: May 29, 1996, 4:14 p.m.

TRD-9607506

Texas State Library

Tuesday, June 11, 1996, 10:00 a.m.

Capitol Extension, Room E1.012

Austin, Texas

Records Management Interagency Coordinating Council

AGENDA

I. Approve minutes of March 22, 1996 meeting

II. Report of the Working Group on Electronic Documents — Clyde Poole, Department of Information Resources

III. Discussion of issues related to electronic record keeping systems and electronic records

IV. Date for next meeting

V. Adjournment

Contact: Nancy Webb, Executive Assistant, Texas State Library, P.O. Box 12927, Austin, Texas 78711, (512) 463-5460, email nancy.webb@tsl.state.tx.us

Filed: May 30, 1996, 1:29 p.m.

TRD-9607524

Texas Department Of Licensing & Regulation

Monday, June 10, 1996, 10:00 a.m.

920 Colorado, E.O. Thompson Building, Fourth Floor, Room 420

Austin

Enforcement Division

AGENDA:

To accept public comment on the persons with disabilities. Under the Americans with Disabilities Act, persons who plan to attend this meeting and require ADA assistance are requested to contact Caroline Jackson at (512) 463-7348 at least two working days prior to the meeting so that appropriate arrangements can be made.

Contact: George Bynog, 920 Colorado, Austin, Texas 78711, (512) 463-7365.

Filed: May 29, 1996, 1:32 p.m.

TRD-9607475

Tuesday, June 11, 1996, 9:00 a.m.

920 Colorado, E.O. Thompson Bldg, 4th. Floor Room 420

Austin, Texas 78701

AGENDA:

According to the complete agenda, the department will hold an Administration Hearing to consider possible assessment of administrative penalties against and revocation of the auctioneer license of the Respondent, Larry William Dunn, for violations of the Tex.Rev.Civ.Stat, Ann arts. 8700 (the Act) §5C and 16 Tex Admin.Code (T.A.C.) §§67.21(a), 67.100(e) and 67.101 (4). Additionally, the Department will consider the claims of Steven J. Lemberg, Edward Stephens, Susan P. Morton, Estate of John E. Prothro, John E. Prothro, Jr., Karen Prothro Puckett, and Jennifer Prothro, claimants against Larry William Dunn, and determine the amounts due the aggrieved parties pursuant to the Act §5C and article 9100; the Tex. Gov't. Code ch. 2001 (APA); and 16 TAC ch 67

Contact: Paula Hamje, E.O. Thompson Building, Austin, Texas 78701, (512) 463-3192.

Filed: May 31, 1996, 9:22 A.M.

09607579

Thursday, June 13, 1996, 9:00 a.m.

920 Colorado, E.O. Thompson Building, Fourth Floor, Room 420

Austin

Enforcement Division, Auctioneering

AGENDA:

According to the complete agenda, the Department will hold an Administrative Hearing to consider possible revocation of the auctioneer license of the Respondent, Robert Groce Dill, for failure to pay public monies to the State Treasury per times and as prescribed by law in violation of 16 Texas Administrative Code (T.A.C.) §67.101(3), in accordance with the Texas Civil Statutes, Article 8700 (the Act) and Article 9100; the Texas Government Code Chapter 2001 (APA); and 16 T.A.C. Chapter 67.

Contact: Paula Hamje, 920 Colorado, E.O. Thompson Building, Austin, Texas 78701, (512) 463-3192.

Filed: May 31, 1996, 9:22 a.m.

TRD-9607580

Friday, June 14, 1996, 9:00 a.m.

920 Colorado, E.O. Thompson Building, Fourth Floor, Room 420

Austin

Texas Commission of Licensing and Regulation

AGENDA:

The complete agenda is attached. The Commission will hold a regular meeting according to the following outline: I. Call to Order; II. Roll Call and Certification of Quorum; III. Contested Cases; IV. Agreed Orders; V. Appointments to the Property Tax Consultants Advisory Council; VI. Proposed Rules and Policies; VII. Agency legislative appropriations request; VIII. Staff reports; IX. Executive Session; X. Open Session/Public Comment; XI. Discussion of date, time and location of next Commission meeting; XII. Adjournment.

Contact: Phyllis Wilson, 920 Colorado, E. O. Thompson Building, Austin, Texas 78701, (512) 463-3173.

Filed: May 31, 1996, 9:54 a.m.

TRD-9607586

Friday, June 14, 1996, 1:00 p.m.

920 Colorado, E.O. Thompson Building, Fourth Floor, Room 420

Austin

Elevator Advisory Board

AGENDA:

I. Call to order

II. Record of attendance

A. Introduction of visitors

III. Approval of Minutes of August 4, 1995 meeting

IV. Department update

V. Old business

A. City of Houston update

B. City of Fort Worth update

C. Expiring terms of advisory board members

VI. New business

A. Subcommittee Report(s)

B. Future Q.E.I. meetings

VII. Public Comment

VIII. Next meeting and adjournment

All facilities are accessible to persons with disabilities. Under the American with Disabilities Act, persons who plan to attend this meeting and require ADA assistance are requested to contact Caroline Jackson at (512) 463-7348 at least two working days prior to the meeting so that appropriate arrangements can be made.

Contact: Jimmy G. Martin, 920 Colorado, Austin, Texas 78711, (512) 463-7356.

Filed: May 30, 1996, 1:57 p.m.

TRD-9607539

Texas State Board of Medical Examiners

Friday, June 7, 1996, 9:00 a.m.

333 Guadalupe, Tower 3, Suite 610

Austin

Texas State Board of Physician Assistant Examiners

AGENDA

1. Call to order
2. Roll call
3. Legislative outlook
4. Participation by board members in Legislative hearings
5. Update on center for rural health initiatives loan reimbursement program and interagency contract
6. Finance report

Contact: Pat Wood, P.O. Box 2018, Austin, Texas 78768-2018, (512) 305-7016, Fax (512) 305-7008

Filed: May 30, 1996, 1:47 p.m.

TRD-9607530

Friday, June 7, 1996, 10:00 a.m.

333 Guadalupe, Tower 3, Suite 610

Austin

Texas State Board of Physician Assistant Examiners

AGENDA

1. Call to order
2. Roll call
3. Review of licensure applicants referred to the Licensure Committee by the Executive Director for determinations of eligibility for licensure.\*
4. Review of Physician Assistant applications for permanent licensure.\*

\* Executive session under the authority of the Open Meetings Act, §551.071 of the Government Code and Article 4495b, and Article

4495b-1, §4(h), Texas Revised Civil Statutes and Article 22 of the Texas Administrative Code, Chapter 185.3(h).

Contact: Pat Wood, P.O. Box 2018, Austin, Texas 78768-2018, (512) 305-7016, Fax (512) 305-7008

Filed: May 30, 1996, 1:47 p.m.

TRD-9607531

Friday, June 7, 1996, 11:30 a.m.

333 Guadalupe, Tower 3, Suite 610

Austin

Texas State Board of Physician Assistant Examiners

AGENDA

1. Call to order
2. Roll call
3. Executive session to review selected investigative files for dismissal. Executive session under the authority of the Open Meeting Act, §551.071 of the Government Code, as related to Article 4495b-1, §4(h), Section 19 of the Texas Revised Civil Statutes and Article 22 of the Texas Administrative Code Chapters 185.3(h) and 185.23(a), and Op. A.G. 1974, Number H-484.

Contact: Pat Wood, P.O. Box 2018, Austin, Texas 78768-2018, (512) 305-7016, Fax (512) 305-7008

Filed: May 30, 1996, 1:47 p.m.

TRD-9607532

Friday, June 7, 1996, 1:30 a.m.

333 Guadalupe, Tower 3, Suite 610

Austin

Texas State Board of Physician Assistant Examiners

AGENDA

1. Call to order
2. Roll call
3. Executive session under the authority of the Open Meetings Act, §551.071 of the Government Code and the Physician Assistant Licensing Act, Article 4495b-1, Texas Revised Civil Statutes, §4(h) and Article 22 of the Texas Administration Code, Chapter 185.3(h) regarding pending or contemplated litigation.
4. Proposal for Decision-Paul Wilde, PA
5. Request for Termination of Agreed Order-Mark Marshall, PA; Richard Branson, PA; and Kenneth Jackson, PA
6. Consideration and Approval of Agreed Order-Gilberto Sanchez, PA
7. Consideration of waiver requested by Michael J. Chiu, M.D. to supervise more than three full time physician assistants.
8. Consideration of waiver requested by Jeff Nicholson, PA to perform sports physicals.
9. Discussion, recommendation and possible action regarding Board Rule 185.17(b).
10. Discussion, recommendation and possible action regarding amendment to Board Rules 185.22.

11. Discussion, recommendation and possible action concerning Newsletter.
12. Discussion, recommendation and possible action regarding Order for Correction.
13. Discussion, recommendation and possible action regarding canceling supervision or physician assistants by physicians whose licenses are restricted.
14. Approval of minutes from previous Board Meetings.
15. Resolutions for former board members.
16. Executive Director's Report
17. Public Hearing and action regarding cancellations for non-payment.
18. Report and recommendations from the Long Range Planning Committee.
19. Report and recommendations from the Disciplinary Committee.
20. Recommendation from the Licensure Committee related to approval of Physician Assistant applications for permanent licensure.

Contact: Pat Wood, P.O. Box 2018, Austin, Texas 78768-2018, (512) 305-7016, Fax (512) 305-7008  
 Filed: May 30, 1996, 1:47 p.m.

TRD-9607533

Texas National Research Laboratory Commission

Tuesday, June 11, 1996, 11:30 a.m.

Conference Room A. Second Floor, Love Field Airport Terminal Building, 8008 Cedar Springs Road

Dallas

Commission

AGENDA

Call to Order and Administrative Actions

Chairman's Report-J. Fred Bucy

Executive Director's Report-Edward C. Bingler

Executive Session

Action Items

Public Comment

Adjourn

Contact: Dixie Eoff, 2275 North Highway 77, Suite 100, Waxahachie, Texas 75165, (214) 935-7810.  
 Filed: June 3, 1996, 9:30 a.m.

TRD-9607664

Natural Resource Conservation Commission

Monday-Tuesday, June 10-11, 1996, 8:30 a.m. and 8:00 a.m., respectively.

Building F, Room 4222, 12100 North Interstate 35

Austin

AGENDA:

The commission will consider the following matters on the attached agenda: June 10, 1996. The Commission will meet in closed session to interview applicants for the Commissions Public Interest Counsel and deliberate the employment of the Commissions Public Interest Counsel; deliberate the employment of the Director of the Commissions Office of Public Assistance, the commission may also meet in open session to take action on this matter.

June 11, 1996; the commission will interview applicants for the Commissions Public Interest Counsel. The Commission may also meet in open session to take action on this matter.

Contact: Doug Kitts, 12100 Park 35 Circle, Austin, Texas 78753, (512) 239-3317.

Filed: May 30, 1996, 3:28 p.m.

TRD-9607567

Wednesday, June 12, 1996, 9:30 a.m. and 1:00 p.m.

Building F, Room 4222, 12100 North Interstate 35

Austin

AGENDA:

The commission will consider approving the following matters: Class 2 Modifications to Hazardous Waste Permit; Class 3 Modification to Hazardous Waste Permit; Hearing Request; Affirm, Modify, or Set Aside Emergency Order; petroleum Storage Tank Enforcement; Air Quality Enforcement; Public Water Supply Enforcement; Water Well Drillers Enforcement; Industrial Hazardous Waste Enforcement; Municipal Waste Discharge Enforcement; Municipal Solid Waste enforcement; Authorization to Construct; Sludge Enforcement; Motion for Reconsideration; Budget; Rules; District Matter; Executive Session; the Commission will consider items previously posted for open meeting and at such meeting verbally postponed or continued to this date. With regard to any item, the Commission may take various actions, including but not limited to rescheduling an item in its entirety or for particular action at a future date or time. (Registration for 9:30 Agenda Starts 8:45 until 9:25)

The Commission will consider approved the following matters on the attached agenda: Motion for Rehearing filed by the City of Crandall. (Registration for the 1:00 p.m. Agenda Starts at 12:30 p.m.)

Contact: Doug Kitts, 12100 Park 35 Circle, Austin, Texas 78753, (512) 239-3317.

Filed: May 30, 1996, 3:36 p.m.

TRD-9607644

Wednesday, June 12, 1996, 9:30 a.m.

Building E, Room 201S

Austin

AGENDA:

The purpose of the hearing will be to determine whether Emergency Order Number 96-0865-IWD, granted by the Texas Natural Resource Conservation Commission (TNRCC) on May 22, 1996 to International Paper Company should be affirmed, modified or set aside by the Commission. The Order authorizes International Paper Company to discharge treated process wastewater commingled with stormwater at a volume not to exceed 500 cubic feet per second and shall not exceed 323,000,000 gallons during any 24-hour period. The effluent limitations are applicable only when the river flow is at ten cubic feet per second or less. The company operates a facility that produces

bleached Kraft pulp and paperboard which is located approximately 14 miles south of the City of Texarkana and five miles east of U.S. Highway 59 at a site adjacent to and south of the Sulphur River, bounded on the east by the Kansas City Southern Railway and on the west by the Texas and Pacific Railway in Cass County, Texas.

Contact: Jim Bateman, MC 175, P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-0600.

Filed: May 29, 1996, 3:03 p.m.

TRD-9607497

Monday, June 17, 1996, 10:00 a.m.

Building C, Room 308E, 12124 Park 35 Circle (TNRCC Complex)

Austin

#### AGENDA:

For a hearing before an administrative law judge of the State Office of Administrative Hearings on an application filed with the Texas Natural Resource Conservation Commission by Draper Estates Water System for an increase in water rates effective February 1, 1996, for its service area located in Travis County, Texas. SOAH Docket Number 582-96-0917.

Contact: Susan Prior, P.O. box 13025, Austin, Texas 78711-3025, (512) 475-3445.

Filed: May 29, 1996, 2:29 p.m.

TRD-9607482

Monday, June 17, 1996, 10:00 a.m.

Building C, Room 308E, 12124 Park 35 Circle (TNRCC Complex)

Austin

#### AGENDA:

For a hearing before an administrative law judge of the State Office of Administrative Hearings on an application filed with the Texas Natural Resource Conservation Commission by Lakeshore Utility Company, Inc. to amend its water Certificate of Convenience and Necessity (CCN) Number 10843 to provide water utility service in Smith County, Texas. The proposed utility service area, East Lake Woods Subdivision, is located approximately 12 miles southeast of downtown Tyler, Texas and is generally bounded on the west and south by Lake Tyler and on the north by State Highway 64. The total area being requested includes approximately 225 acres and no current customers. SOAH Docket Number 582-96-0790.

Contact: Susan Prior, P.O. box 13025, Austin, Texas 78711-3025, (512) 475-3445.

Filed: May 29, 1996, 2:30 p.m.

TRD-9607483

Friday, June 21, 1996, 10:00 a.m.

Building F, Room 5108, 12015 Park 35 Circle (TNRCC Complex)

Austin

#### AGENDA:

For a hearing before an administrative law judge of the State Office of Administrative Hearings on an application filed with the Texas Natural Resource Conservation Commission by Walter J. Carroll doing business as Carroll Water Company, Inc. for an increase in

water rates effective January 30, 1996, for its service area located in Ellis County, Texas. SOAH Docket Number 582-96-0789.

Contact: Susan Prior, P.O. Box 13025, Austin, Texas 78711-3025, (512) 475-3445.

Filed: May 29, 1996, 2:30 p.m.

TRD-9607484

Tuesday, June 25, 1996, 10:00 a.m.

Building F, Room 2210, 12015 Park 35 Circle (TNRCC Complex)

Austin

#### AGENDA:

For a hearing before an administrative law judge of the State Office of Administrative Hearings on an application filed with the Texas Natural Resource Conservation Commission by Baumgart Water Supply Corporation for sale of a retail public utility and to transfer Certificate of Convenience and Necessity (CCN) Number 11458 to Holiday Beach Water Supply Corporation. CCN Number 11458 authorizes the provision of water utility service in Aransas County, Texas. The transaction and the transfer of the CCN include the Holiday Beach Subdivision. The area being transferred is approximately ten miles northeast of downtown Rockport, Texas and is generally bounded on the south by the township of Lamar on Lamar Peninsula, on the west by Copano Bay, and on the east by Aransas National Wildlife Preserve. The service area is divided by Highway 35 North. SOAH Docket Number 582-96-0916.

Contact: Susan Prior, P.O. Box 13025, Austin, Texas 78711-3025, (512) 475-3445.

Filed: May 29, 1996, 2:30 p.m.

TRD-9607488

Tuesday, June 25, 1996, 10:00 a.m.

Building B, Room 1014A, 12124 Park 35 Circle (TNRCC Complex)

Austin

#### AGENDA:

For a hearing before an administrative law judge of the State Office of Administrative Hearings on an application filed with the Texas Natural Resource Conservation Commission by Ponderosa Utility Company for an increase in water rates effective March 1, 1996, for its service area located in Denton County, Texas. SOAH Docket Number 582-96-0914.

Contact: Susan Prior, P.O. Box 13025, Austin, Texas 78711-3025, (512) 475-3445.

Filed: May 29, 1996, 2:30 p.m.

TRD-9607513

Wednesday, June 26, 1996, 9:30 a.m.

Building E, Room 201S, 12118 Park 35 Circle (TNRCC Complex)

Austin

#### AGENDA:

Docket Number 96-0918-DIS; petition for the creation of Harris County Municipal Utility District Number 365 Petition is filed and hearing will be held under authority of Chapter 54 of the Texas Water Code, 30 Texas Administrative Code Chapter 293, and the procedural rules of the Commission. Applicants have stated that a

preliminary investigation has been instituted to determine the cost of said project, and it is estimated from such information as is available at this time, that the ultimate cost of the development contemplated will be approximately \$23,850,000. the territory to be included in the proposed District contains approximately 671 acres, more or less, lies wholly within Harris County, Texas and no part thereof is within the limits of any incorporated city or town. The District is within the extraterritorial jurisdiction of the City of Houston. The territory to be included within the proposed District is further set forth in a metes and bounds description available for viewing at the Houston Regional Office of the TNRCC at 5425 Polk Avenue, Suite H, Houston, Texas 77023-1423 (Telephone (713) 767-3520); at the TNRCC offices in Austin, Texas at 12015 Park 35 Circle, Building F-1st Floor, room 1101, office of the Chief Clerk (Telephone (512) 239-3315); and in the offices of James A. Boone, Attorney at Law, Vinson and Elkins, 2300 First City Tower, 1001 Fannin, Houston, Texas 77002-6760. The petition for creation of the District states there is a necessity for the creation of the District because the area of the District is urban in nature, is within the growing environs of the Houston area and is in close proximity to populous and developed sections of Harris County. Within the immediate future, applicants feel the area covered by the proposed District will experience a substantial and sustained residential and commercial growth. Said area is not supplied with adequate water and sanitary sewer facilities and services nor with adequate drainage facilities. The health and welfare of the future inhabitants of the area and of territories adjacent thereto require the installation and acquisition of an adequate water supply and sewage disposal system and an adequate drainage system for and within the area of the District.

Contact: Water Utilities District Administration Section, MC-152, P.O. Box 13087, Austin, Texas 78711, (512) 239-6161.  
Filed: May 30, 1996, 1:56 p.m.

TRD-9607540

Wednesday, June 26, 1996, 9:30 a.m.

Building E, Room 201S, 12118 Park 35 Circle (TNRCC Complex)  
Austin

#### AGENDA:

Docket Number 96-0919-DIS; petition for the creation of Harris County Municipal Utility District Number 364. petition is filed and hearing will be held under authority of Chapter 54 of the Texas Water Code, 30 Texas Administrative Code Chapter 293, and the procedural rules of the Commission. Applicants have stated that a preliminary investigation has been instituted to determine the cost of said project, and it is estimated from such information as is available at this time, that the ultimate cost of the development contemplated will be approximately \$22,200,000. The territory to be included in the proposed District contains approximately 473 acres, more or less, lies wholly within Harris County, Texas and no part thereof is within the limits of any incorporated city or town. The District is within the extraterritorial jurisdiction of the City of Houston. The territory to be included within the proposed District is further set forth in a metes and bounds description available for viewing at the Houston Regional Office of the TNRCC at 5425 Polk Avenue, Suite H, Houston, Texas 77023-1423 (Telephone (713) 767-3520); at the TNRCC offices in Austin, Texas at 12015 Park 35 Circle, Building F-1st Floor, Room 1101, Office of the Chief Clerk (Telephone (512) 239-3315); and in the offices of James A. Boone, Attorney at Law, vinson and Elkins, 2300 First City Tower, 1001 Fannin, Houston, Texas 77002-6760.

The petition for creation of the District states there is a necessity for the creation of the District because the area of the District is urban in nature, is within the growing environs of the Houston area and is in close proximity to populous and developed sections of Harris County. Within the immediate future, applicants feel the area covered by the proposed District will experience a substantial and sustained residential and commercial growth. Said area is not supplied with adequate water and sanitary sewer facilities and services nor with adequate drainage facilities. the health and welfare of the future inhabitants of the area and of territories adjacent thereto require the installation and acquisition of an adequate water supply and sewage disposal system and an adequate drainage system for and within the area of the District.

Contact: Water Utilities district Administration Section, MC-152, TNRCC, P.O. Box 13087, Austin, Texas 78711, (512) 239-6161.  
Filed: May 30, 1996, 1:06 p.m.

TRD-9607571

Thursday, June 27, 1996, 10:00 a.m.

Corsicana High School Auditorium, 3701 West Highway 22

Corsicana

#### AGENDA:

On an application by Griffin Industries, Inc., Proposed Water Quality Permit Number 03867, Proposed Air Quality Permit Number 30413, to construct and operate an animal by-product rendering plant. The proposed location of the rendering plant is at 5500 South Interstate 45, on the west side of I.H. 45, about five miles south of Highway 31 near the city of Corsicana in Navarro County, Texas.

Contact: Cindy Lee (Water Quality), Richard Hyde (Air Quality), P.O. Box 13025, Austin, Texas 78711-3025, (512) 475-3445.  
Filed: May 30, 1996, 1:07 p.m.

TRD-9607570

Friday, June 28, 1996, 10:00 a.m.

Sims Community Center, Avenue H and 10th Street

Nolanville

#### AGENDA:

For a hearing before an administrative law judge of the State Office of Administrative Hearings on an application filed with the Texas Natural Resource Conservation Commission by Walter F. Duvall doing business as Plaza Water for an increase in water and sewer rates effective March 18, 1996, for its service area located in Bell County, Texas. SOAH Docket Number 582-96-0918.

Contact: Susan Prior, P.O. Box 13025, Austin, Texas 78711-3025, (512) 475-3445.  
Filed: May 29, 1996, 2:54 p.m.

TRD-9607487

Monday, July 1, 1996, 10:00 a.m.

Tyler City Hall, Council Chambers, 212 North Bonner

Tyler

#### AGENDA:

For a hearing before an administrative law judge of the State Office of Administrative Hearings on an application filed with the Texas

Natural Resource Conservation Commission by Wilkins Contracting doing business as Woodmark Utilities for an increase in sewer rates effective April 1, 1996, for its service area located in Smith County, Texas. SOAH Docket Number 582-96-0919.

Contact: Susan Prior, P.O. Box 13025, Austin, Texas 78711-3025, (512) 475-3445.

Filed: May 29, 1996, 2:54 p.m.

TRD-9607486

Tuesday, July 9, 1996, 10:00 a.m.

Refugio City Courthouse, District Courtroom, Second Floor, 808 Commerce

Refugio

AGENDA:

On an application by Austwell Aqua Farm, Inc., Proposed Water Quality Permit Number 03833, to authorize discharges of marine mariculture wastewater effluent. The applicant proposes to operate a mariculture facility and raise shrimp. The facility is located on FM Road 2040 about three miles southeast of the intersection of FM Road 2040 and FM Road 774 in the City of Austwell, Refugio County, Texas.

Contact: Mark Sullivan, P.O. Box 13087, Mail Code 148, Austin, Texas 78711, (512) 239-4522.

Filed: May 30, 1996, 3:56 p.m.

TRD-9607574

Natural Resource Conservation Commission

Monday-Tuesday, June 10-11, 1996, 8:30 a.m. and 8:00 a.m., respectively.

Building F, Room 4222, 12100 North Interstate 35

Austin

AGENDA:

The commission will consider the following matters on the attached agenda: June 10, 1996. The Commission will meet in closed session to interview applicants for the Commissions Public Interest Counsel and deliberate the employment of the Commissions Public Interest Counsel; deliberate the employment of the Director of the Commissions Office of Public Assistance, the commission may also meet in open session to take action on this matter.

June 11, 1996; the commission will interview applicants for the Commissions Public Interest Counsel. The Commission may also meet in open session to take action on this matter.

Contact: Doug Kitts, 12100 Park 35 Circle, Austin, Texas 78753, (512) 239-3317.

Filed: May 30, 1996, 3:28 p.m.

TRD-9607567

Wednesday, June 12, 1996, 9:30 a.m. and 1:00 p.m.

Building F, Room 4222, 12100 North Interstate 35

Austin

AGENDA:

The commission will consider approving the following matters: Class 2 Modifications to Hazardous Waste Permit; Class 3 Modification to

Hazardous Waste Permit; Hearing Request; Affirm, Modify, or Set Aside Emergency Order; petroleum Storage Tank Enforcement; Air Quality Enforcement; Public Water Supply Enforcement; Water Well Drillers Enforcement; Industrial Hazardous Waste Enforcement; Municipal Waste Discharge Enforcement; Municipal Solid Waste enforcement; Authorization to Construct; Sludge Enforcement; Motion for Reconsideration; Budget; Rules; District Matter; Executive Session; the Commission will consider items previously posted for open meeting and at such meeting verbally postponed or continued to this date. With regard to any item, the Commission may take various actions, including but not limited to rescheduling an item in its entirety or for particular action at a future date or time. (Registration for 9:30 Agenda Starts 8:45 until 9:25)

The Commission will consider approved the following matters on the attached agenda: Motion for Rehearing filed by the City of Crandall. (Registration for the 1:00 p.m. Agenda Starts at 12:30 p.m.)

Contact: Doug Kitts, 12100 Park 35 Circle, Austin, Texas 78753, (512) 239-3317.

Filed: May 30, 1996, 3:36 p.m.

TRD-9607644

Wednesday, June 12, 1996, 9:30 a.m.

Building E, Room 201S

Austin

AGENDA:

The purpose of the hearing will be to determine whether Emergency Order Number 96-0865-IWD, granted by the Texas Natural Resource Conservation Commission (TNRCC) on May 22, 1996 to International Paper Company should be affirmed, modified or set aside by the Commission. The Order authorizes International Paper Company to discharge treated process wastewater commingled with stormwater at a volume not to exceed 500 cubic feet per second and shall not exceed 323,000,000 gallons during any 24-hour period. The effluent limitations are applicable only when the river flow is at ten cubic feet per second or less. The company operates a facility that produces bleached Kraft pulp and paperboard which is located approximately 14 miles south of the City of Texarkana and five miles east of U.S. Highway 59 at a site adjacent to and south of the Sulphur River, bounded on the east by the Kansas City Southern Railway and on the west by the Texas and Pacific Railway in Cass County, Texas.

Contact: Jim Bateman, MC 175, P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-0600.

Filed: May 29, 1996, 3:03 p.m.

TRD-9607497

Monday, June 17, 1996, 10:00 a.m.

Building C, Room 308E, 12124 Park 35 Circle (TNRCC Complex)

Austin

AGENDA:

For a hearing before an administrative law judge of the State Office of Administrative Hearings on an application filed with the Texas Natural Resource Conservation Commission by Draper Estates Water System for an increase in water rates effective February 1, 1996, for its service area located in Travis County, Texas. SOAH Docket Number 582-96-0917.



Contact: Susan Prior, P.O. box 13025, Austin, Texas 78711-3025, (512) 475-3445.

Filed: May 29, 1996, 2:29 p.m.

TRD-9607482

Monday, June 17, 1996, 10:00 a.m.

Building C, Room 308E, 12124 Park 35 Circle (TNRCC Complex)  
Austin

AGENDA:

For a hearing before an administrative law judge of the State Office of Administrative Hearings on an application filed with the Texas Natural Resource Conservation Commission by Lakeshore Utility Company, Inc. to amend its water Certificate of Convenience and Necessity (CCN) Number 10843 to provide water utility service in Smith County, Texas. The proposed utility service area, East Lake Woods Subdivision, is located approximately 12 miles southeast of downtown Tyler, Texas and is generally bounded on the west and south by Lake Tyler and on the north by State Highway 64. The total area being requested includes approximately 225 acres and no current customers. SOAH Docket Number 582-96-0790.

Contact: Susan Prior, P.O. box 13025, Austin, Texas 78711-3025, (512) 475-3445.

Filed: May 29, 1996, 2:30 p.m.

TRD-9607483

Friday, June 21, 1996, 10:00 a.m.

Building F, Room 5108, 12015 Park 35 Circle (TNRCC Complex)  
Austin

AGENDA:

For a hearing before an administrative law judge of the State Office of Administrative Hearings on an application filed with the Texas Natural Resource Conservation Commission by Walter J. Carroll doing business as Carroll Water Company, Inc. for an increase in water rates effective January 30, 1996, for its service area located in Ellis County, Texas. SOAH Docket Number 582-96-0789.

Contact: Susan Prior, P.O. Box 13025, Austin, Texas 78711-3025, (512) 475-3445.

Filed: May 29, 1996, 2:30 p.m.

TRD-9607484

Tuesday, June 25, 1996, 10:00 a.m.

Building F, Room 2210, 12015 Park 35 Circle (TNRCC Complex)  
Austin

AGENDA:

For a hearing before an administrative law judge of the State Office of Administrative Hearings on an application filed with the Texas Natural Resource Conservation Commission by Baumgart Water Supply Corporation for sale of a retail public utility and to transfer Certificate of Convenience and Necessity (CCN) Number 11458 to Holiday Beach Water Supply Corporation. CCN Number 11458 authorizes the provision of water utility service in Aransas County, Texas. The transaction and the transfer of the CCN include the Holiday Beach Subdivision. The area being transferred is approximately ten miles northeast of downtown Rockport, Texas and is generally bounded on the south by the township of Lamar on Lamar

Peninsula, on the west by Copano Bay, and on the east by Aransas National Wildlife Preserve. The service area is divided by Highway 35 North. SOAH Docket Number 582-96-0916.

Contact: Susan Prior, P.O. Box 13025, Austin, Texas 78711-3025, (512) 475-3445.

Filed: May 29, 1996, 2:30 p.m.

TRD-9607488

Tuesday, June 25, 1996, 10:00 a.m.

Building B, Room 1014A, 12124 Park 35 Circle (TNRCC Complex)  
Austin

AGENDA:

For a hearing before an administrative law judge of the State Office of Administrative Hearings on an application filed with the Texas Natural Resource Conservation Commission by Ponderosa Utility Company for an increase in water rates effective March 1, 1996, for its service area located in Denton County, Texas. SOAH Docket Number 582-96-0914.

Contact: Susan Prior, P.O. Box 13025, Austin, Texas 78711-3025, (512) 475-3445.

Filed: May 29, 1996, 2:30 p.m.

TRD-9607513

Wednesday, June 26, 1996, 9:30 a.m.

Building E, Room 201S, 12118 Park 35 Circle (TNRCC Complex)  
Austin

AGENDA:

Docket Number 96-0918-DIS; petition for the creation of Harris County Municipal Utility District Number 365 Petition is filed and hearing will be held under authority of Chapter 54 of the Texas Water Code, 30 Texas Administrative Code Chapter 293, and the procedural rules of the Commission. Applicants have stated that a preliminary investigation has been instituted to determine the cost of said project, and it is estimated from such information as is available at this time, that the ultimate cost of the development contemplated will be approximately \$23,850,000. the territory to be included in the proposed District contains approximately 671 acres, more or less, lies wholly within Harris County, Texas and no part thereof is within the limits of any incorporated city or town. The District is within the extraterritorial jurisdiction of the City of Houston. The territory to be included within the proposed District is further set forth in a metes and bounds description available for viewing at the Houston Regional Office of the TNRCC at 5425 Polk Avenue, Suite H, Houston, Texas 77023-1423 (Telephone (713) 767-3520); at the TNRCC offices in Austin, Texas at 12015 Park 35 Circle, Building F-1st Floor, room 1101, office of the Chief Clerk (Telephone (512) 239-3315); and in the offices of James A. Boone, Attorney at Law, Vinson and Elkins, 2300 First City Tower, 1001 Fannin, Houston, Texas 77002-6760. The petition for creation of the District states there is a necessity for the creation of the District because the area of the District is urban in nature, is within the growing environs of the Houston area and is in close proximity to populous and developed sections of Harris County. Within the immediate future, applicants feel the area covered by the proposed District will experience a substantial and sustained residential and commercial growth. Said area is not supplied with adequate water and sanitary sewer facilities and services nor with adequate drainage facilities. The health and welfare of the future

inhabitants of the area and of territories adjacent thereto require the installation and acquisition of an adequate water supply and sewage disposal system and an adequate drainage system for and within the area of the District.

Contact: Water Utilities District Administration Section, MC-152, P.O. Box 13087, Austin, Texas 78711, (512) 239-6161.  
Filed: May 30, 1996, 1:56 p.m.

TRD-9607540

Wednesday, June 26, 1996, 9:30 a.m.

Building E, Room 201S, 12118 Park 35 Circle (TNRCC Complex)  
Austin

AGENDA:

Docket Number 96-0919-DIS; petition for the creation of Harris County Municipal Utility District Number 364. petition is filed and hearing will be held under authority of Chapter 54 of the Texas Water Code, 30 Texas Administrative Code Chapter 293, and the procedural rules of the Commission. Applicants have stated that a preliminary investigation has been instituted to determine the cost of said project, and it is estimated from such information as is available at this time, that the ultimate cost of the development contemplated will be approximately \$22,200,000. The territory to be included in the proposed District contains approximately 473 acres, more or less, lies wholly within Harris County, Texas and no part thereof is within the limits of any incorporated city or town. The District is within the extraterritorial jurisdiction of the City of Houston. The territory to be included within the proposed District is further set forth in a metes and bounds description available for viewing at the Houston Regional Office of the TNRCC at 5425 Polk Avenue, Suite H, Houston, Texas 77023-1423 (Telephone (713) 767-3520); at the TNRCC offices in Austin, Texas at 12015 Park 35 Circle, Building F-1st Floor, Room 1101, Office of the Chief Clerk (Telephone (512) 239-3315); and in the offices of James A. Boone, Attorney at Law, Vinson and Elkins, 2300 First City Tower, 1001 Fannin, Houston, Texas 77002-6760. The petition for creation of the District states there is a necessity for the creation of the District because the area of the District is urban in nature, is within the growing environs of the Houston area and is in close proximity to populous and developed sections of Harris County. Within the immediate future, applicants feel the area covered by the proposed District will experience a substantial and sustained residential and commercial growth. Said area is not supplied with adequate water and sanitary sewer facilities and services nor with adequate drainage facilities. the health and welfare of the future inhabitants of the area and of territories adjacent thereto require the installation and acquisition of an adequate water supply and sewage disposal system and an adequate drainage system for and within the area of the District.

Contact: Water Utilities district Administration Section, MC-152, TNRCC, P.O. Box 13087, Austin, Texas 78711, (512) 239-6161.  
Filed: May 30, 1996, 1:06 p.m.

TRD-9607571

Thursday, June 27, 1996, 10:00 a.m.

Corsicana High School Auditorium, 3701 West Highway 22

Corsicana

AGENDA:

On an application by Griffin Industries, Inc., Proposed Water Quality Permit Number 03867, Proposed Air Quality Permit Number 30413, to construct and operate an animal by-product rendering plant. The proposed location of the rendering plant is at 5500 South Interstate 45, on the west side of I.H. 45, about five miles south of Highway 31 near the city of Corsicana in Navarro County, Texas.

Contact: Cindy Lee (Water Quality), Richard Hyde (Air Quality), P.O. Box 13025, Austin, Texas 78711-3025, (512) 475-3445.  
Filed: May 30, 1996, 1:07 p.m.

TRD-9607570

Friday, June 28, 1996, 10:00 a.m.

Sims Community Center, Avenue H and 10th Street  
Nolanville

AGENDA:

For a hearing before an administrative law judge of the State Office of Administrative Hearings on an application filed with the Texas Natural Resource Conservation Commission by Walter F. Duvall doing business as Plaza Water for an increase in water and sewer rates effective March 18, 1996, for its service area located in Bell County, Texas. SOAH Docket Number 582-96-0918.

Contact: Susan Prior, P.O. Box 13025, Austin, Texas 78711-3025, (512) 475-3445.  
Filed: May 29, 1996, 2:54 p.m.

TRD-9607487

Monday, July 1, 1996, 10:00 a.m.

Tyler City Hall, Council Chambers, 212 North Bonner  
Tyler

AGENDA:

For a hearing before an administrative law judge of the State Office of Administrative Hearings on an application filed with the Texas Natural Resource Conservation Commission by Wilkins Contracting doing business as Woodmark Utilities for an increase in sewer rates effective April 1, 1996, for its service area located in Smith County, Texas. SOAH Docket Number 582-96-0919.

Contact: Susan Prior, P.O. Box 13025, Austin, Texas 78711-3025, (512) 475-3445.  
Filed: May 29, 1996, 2:54 p.m.

TRD-9607486

Tuesday, July 9, 1996, 10:00 a.m.

Refugio City Courthouse, District Courtroom, Second Floor, 808 Commerce

Refugio

AGENDA:

On an application by Austwell Aqua Farm, Inc., Proposed Water Quality Permit Number 03833, to authorize discharges of marine mariculture wastewater effluent. The applicant proposes to operate a mariculture facility and raise shrimp. The facility is located on FM Road 2040 about three miles southeast of the intersection of FM Road 2040 and FM Road 774 in the City of Austwell, Refugio County, Texas.

Contact: Mark Sullivan, P.O. Box 13087, Mail Code 148, Austin, Texas 78711, (512) 239-4522.

Filed: May 30, 1996, 3:56 p.m.

TRD-9607574

State Pension Review Board

Wednesday, June 12, 1996, 1:30 p.m.

William Clements Building, 5th Floor, Committee 5, 300 West 15th Street

Austin, Texas

AGENDA

1. MEETING CALLED TO ORDER
2. ROLL CALL
3. READING AND ADOPTION OF MINUTES OF PREVIOUS MEETING
4. COMMITTEE REPORTS
  - A. Administration, Chair Bruce Cox (Horwitz)
    1. Consideration of Adopting Strategic Plan
    2. Consideration of Adopting Signature Authorization to Approve and Sign Vouchers
  - B. Research, Chair Larry Eddington (Deiters)
    1. Meeting of Database Committee
    2. Update on Pension Policy and Legislation Committee (Bruce Cox)
  - C. Actuarial, Chair Ronald Haneberg (Smith)
    1. Compliance Update
    2. Update on Actuarial Project for Volunteer Firefighter Plans
  - D. Communications, Chair Cheryl Dotson (Deiters)
    1. Logo Update
  - E. Legislative, Chair Gilbert Vazquez (Horwitz)
5. DISCUSSION AND POSSIBLE ACTION ON OLD BUSINESS
6. ANNOUNCEMENTS AND INVITATION FOR AUDIENCE PARTICIPATION
7. EXECUTIVE DIRECTOR'S REPORT
8. CHAIRMAN'S REPORT
9. ADJOURNMENT, ANNOUNCE SCHEDULE OF BOARD MEETINGS

Contact: Lynda Baker, P.O. Box 13498, Austin, Texas 78711, (512) 463-1736

Filed: May 31, 1996, 2:51 p.m.

TRD-9607632

Public Utility Commission of Texas

Tuesday, June 11, 1996 10 a.m.

7800 Shoal Creek Boulevard

Austin, Texas

AGENDA

The Commissioners will have a Work Session/Workshop for discussion and possible action on agency administrative procedures; project assignments; correspondence; staff reports; Budget, fiscal matters and strategic planning; Enforcement of commission rules and orders; Commission's response to the Federal Telecommunications Act of 1996, including but not limited to actions taken by the Federal Communications Commission; Filings submitted to the commission under Title I of the Federal Telecommunications Act of 1996; Electric Industry Competition issues and Telecommunications Industry Competition issues; Project number 15000 (Electric Industry Restructuring), Project Number 15001 (Stranded Costs or Excess Costs Over Market) and Project Number 15002 (scope of Competition in the Electric Industry in Texas).

Contact: Paula Mueller, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0241.

Filed: June 3, 1996 9:57 a.m.

TRD-9607681

Monday, June 17, 1996 9 a.m.

7800 Shoal Creek Boulevard

Austin, Texas

AGENDA

A hearing on the Merits will be held by the State Office of Administrative Hearings in Docket Number 15947--Application of Sprint Communications Company L.P. for a Certificate of Operating Authority. This application was filed on May 30, 1996. Applicant intends to provide a full range of telecommunication services, including, but not limited to, various intrastate switched services. Sprint will offer local exchange services and exchange access services, as appropriate. Sprint will provide access to specific types of services, including two-way lines, trunks, direct inward/outward dialing options, basic custom calling features, wireless services and 911 emergency services. The geographic area to be serviced by applicant will follow the exchange boundaries of GTE Southwest, Inc. Persons who wish to intervene or otherwise participate in these proceedings should make appropriate filings or comments to the Commission by June 12, 1996.

Contact: Paula Mueller, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0241.

Filed: May 31, 1996 9:35 a.m.

TRD-9607581

Tuesday, June 18, 1996 9 a.m.

7800 Shoal Creek Boulevard

Austin, Texas

Legal Administration

AGENDA

A joint prehearing conference has been scheduled for Docket Number 15904--Application of Alenco Communications Inc. to amend certificate of convenience and necessity and application for sale, transfer, or merger; Docket 15905--Application of Guadalupe Valley Telephone Cooperative Inc. to amend certificate of convenience and necessity and application for sale, transfer or merger; Docket 15906--Application of Central Texas Telephone Cooperative, Inc. to amend certificate of convenience and necessity and application for sale, transfer, or merger; Docket Number 15907--Application

of Cap Rock Telephone Cooperative, Inc. to amend certificate of convenience and necessity and application for sale, Transfer, or Merger; Docket Number 15908—Application of Mid-Plains Rural Telephone Cooperative, Inc. to amend certificate of convenience and necessity and application for sale, transfer, or merger; Docket Number 15909—Application of Peoples Telephone Cooperative, Inc. to amend certificate of convenience and necessity and application for sale, transfer, or merger.

Contact: Paula Mueller, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0241.

Filed: May 31, 1996 10:11 a.m.

TRD-9607587

Tuesday, June 18, 1996 10 a.m.

7800 Shoal Creek Boulevard

Austin, Texas

Legal Administration

#### AGENDA

A prehearing conference has been scheduled for Docket Number 15927—Application of Ganado Telephone Company, Inc. for sale, transfer, or merger, and to amend certificate of convenience and necessity.

Contact: Paula Mueller, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0241.

Filed: May 31, 1996

TRD-9607595

Texas Racing Commission

Monday, June 10, 1996, 10:00 a.m.

John H. Reagan Bldg., Rm. 101, 105 W. 15th St.

Austin, Texas

#### AGENDA

Call to Order; Roll Call; Consideration of and action on the following rules: §303.41, §309.27, §309.202, §313.25, §313.49, §319.102, §319.111, §321.38, §321.204, §321.276, §321.277; Consideration of and action the following: Petition by United Horsemen's Association for amendment to §303.81 and repeal of §303.92, §303.93, and §303.94; Request by Texas Horsemen's Partnership, LLP, for recognition as the statewide horsemen's organization; Request to open application periods to receive applications for a Class 2 racetrack license in Hidalgo County; Allocation of certain revenue from simulcasting to purses and Texas-bred programs among the various breeds; Request by Sam Houston Race Park for approval of changes in the board of directors of SHRP General Partner, Inc.; Matters relating to Trinity Meadows Raceway: (1) Ratification of Executive Secretary's action of April 9, 1996; (2) Number of thoroughbred races per day/week; (3) Request for additional live race dates; (4) Request for exemption to §309.18 (First Aid); (5) Request for approval of percentages for purses from simulcasting; Old & New Business; Adjourn.

Contact: Paula Cochran Carter, General Counsel, P.O. Box 12080, Austin, Texas 78701, (512) 833-6699.

Filed: May 31, 1996, 2:50 p.m.

TRD-9607634

State Seed and Plant Board

Friday, June 14, 1996 8:30 am

Drury Inn-Dallas North 2421 Walnut Hill Lane

Dallas, Texas

#### AGENDA

Discussion and Action on: Minutes of the May 8, 1996 Meeting; Applicants for License as Certified Seed Growers; Requests for Certification Eligibility; Acknowledgement of Foreign Designations; Name Change of Variety; Review of Certification Standards; and Public Comment

Contact: Charles Leamons, Seed Quality, P.O. Box 629, Giddings, Texas 78942, (409) 542-3691

Filed: May 31, 1996, 8:44 am

TRD-9607576

Texas State Soil and Water Conservation Board

Friday, June 7, 1996 10:00 am

Temple Chamber of Commerce Meeting Room, 2 N. 5th Street

Temple, Texas

#### AGENDA

Review and take appropriate action on the following: District director appointments; 1998-1999 biennium Legislative Appropriation Requests; Agency Strategic Plan; 1996 annual Statewide meeting of soil and water conservation district directors; recruiting and training update; reports from agencies and guests; next regular board meeting July 17, 1996.

Contact: Robert G. Buckley, P.O. Box 658, Temple, Texas 76503, (817) 773-2250

Filed: May 29, 1996, 2:02 pm

TRD-9607480

Sunset Advisory Commission

Wednesday, June 19, 1996 9:00 am, Thursday, June 20, 1996 9:00 am

1400 N. Congress, Capitol Extension Room E1.030

Austin, Texas

#### AGENDA

Call to order, approval of minutes, presentation of staff report and public testimony on: Texas Department of Protective and Regulatory Services, other business, selection of next meeting date — August 28th or 29th, adjourn

Contact: Susan Kinney 1400 N. Congress, Room E2.002, Capitol Extension Austin, Texas 78701, (512) 463-1300

Filed: May 31, 1996 1:27 pm

TRD-9607616

Texas State Technical College System

June 4, 1996 10:30 a.m.

Board of Regents, Executive Committee

Teleconference

3801 Campus Drive, Chancellor's Office, Conference Room

Waco, Texas

#### AGENDA

A. Approval of TSTC Strategic Plan

B. Signature Authorizations

C. Executive an agreement for the appointment of bond counsel and the advertising in the Texas Register of the appointment and the request from the Attorney General's Office for the authority to employ outside counsel

D. Advertise for the employment of a financial advisory and to evaluate the proposals and employ a qualified financial advisor to assist in the sale and delivery of the Revenue bonds to be paid from proceeds received under the HEAF funds

E. Authorize the Chancellor to employ an appraiser to furnish to the board an appraisal of the value of the property in Amarillo which has been declared surplus.

Contact: Sandra J. Krumnow, Secretary to the Board, 3801 Campus Drive, Waco, Texas 76705 (817) 867-4890

Filed: May 30, 1996 3:56 p.m.

TRD-9607572

June 4, 1996 10:30 a.m.

#### REVISED AGENDA

Board of Regents, Executive Committee

Teleconference

3801 Campus Drive, Chancellor's Office, Conference Room

Waco, Texas

#### AGENDA

Approval of Roofing Contract at Texas State Technical College Waco

Contact: Sandra J. Krumnow, Secretary to the Board, 3801 Campus Drive, Waco, Texas (817) 867-4890

Filed: May 31, 1996 2:23 p.m.

TRD-9607631

Texas Workers' Compensation Commission

Friday, June 7, 1996 9:30 am

4000 South IH-35, Room 910-911, Southfield Building

Austin, Texas

#### AGENDA

Call to Order, review and possible approval of March 15, 1996, March 29, 1996, and April 2, 1996 minutes, review and discussion of action items, update on rules presented to the commission, review of the THA proposal for the Acute Care Inpatient Hospital Fee Guideline Methodology, establish draft agenda, establish next meeting date, adjournment

Contact: Todd K. Brown, 4000 South IH-35, Austin, Texas 78704, (512) 440-5690

Filed: May 30, 1996 10:18 am

TRD-9607517

Texas Council on Workforce and Economic Competitiveness

Thursday, June 6, 1996 noon

State Capitol Extension, Room #E1.036

Austin, Texas

emergency revised agenda

Program Policy and Oversight Committee

#### AGENDA

Call to Order, announcements, public comment, briefing item: workforce development system "The big picture"; action item: state employment service plan, action item, JTPA title IIA/IIC and title III plan approval and SDA/SSA hard-to-serve eligibility categories for PY96 approval, briefing item: JTPA PY95 third quarter performance report, briefing item: overview of the JTPA performance criteria and state monitoring and sanctions policy and a status report on the SDA/SSA technical assistance plan, action item: consideration of the recommendation to the Governor regarding policy to allow Job Training Partnership Act (JTPA) Service Delivery Areas (SDAs) the flexibility to transfer funds between Title IIA and Title III of the JTPA and between Title IIB and Title IIC of the JTPA, Policy Briefing item, food stamp employment and training state plan, adjourn

reason for emergency: This policy must be in place in order to facilitate the flexibility between programs during the program year beginning July 1, 1996. This policy is critical to the success of these programs

Contact: Val Blaschke, P.O. Box 2241, Austin, Texas 78768, (512) 912-7158

Filed: May 31, 1996 2:36 pm

TRD-96007630

Thursday, June 6, 1996 3:00 pm

State Capitol Extension, Room #E1.028

Austin, Texas

emergency revised agenda

Strategic Planning Committee

#### AGENDA

Call to Order, announcements, public comment, briefing item: workforce development system "The big picture"; status of school to work system in Texas—briefing item, introduction to skill standards and overview of the Texas skill standards board, modifications to the council's strategic plan, consideration of a request from the Lubbock/Garza service delivery area and the South Plains Service Delivery Area to remain as independent service delivery areas until January 1, 1997, as well as other appropriate adjustments, adjourn

reason for emergency: This request must be acted on prior to the Council's next regularly scheduled meeting in order to facilitate service delivery for these two service delivery areas during the program year.

Contact: Val Blaschke, P.O. Box 2241, Austin, Texas 78768, (512) 912-7158

Filed: May 31, 1996 2:36 pm

TRD-96007629

Regional Meetings

Meetings Filed May 29, 1996

The Brazos Valley Development Council, Brazos Valley Regional Advisory Committee on Aging met at 1706 East 29th Street, at 2:30 p.m. Information may be obtained from Roberta Lindquist, P.O.

Drawer 4128, Bryan, Texas 77805-4128, (409) 775-4244. TRD-9607509.

The Golden Crescent Regional Planning Commission, (Emergency Revised Agenda.), Board of Directors met at 568 Big Bend Drive, Victoria, May 29, 1996, at 5:00 p.m. The reason for emergency: Received planning grant on May 29, 1996—must return no later than June 7, 1996 and the Board of Directors will not meet prior to that date. Information may be obtained from Rhonda Stastny, P.O. Box 2028, Victoria, Texas 77902, (512) 578-1587. TRD-9607485.

The Lavaca County Central Appraisal District, Board of Directors will meet at 113 North Main Street, Hallettsville, June 10, 1996, at 4:00 p.m. Information may be obtained from Diana Munson, P.O. Box 386, Hallettsville, Texas 77964, (512) 798-4396. TRD-9607474.

The Middle Rio Grande Development Council, Texas Review and Comment System met in the Reading Room, Willie DeLeon Civic Center E, Main Street, Uvalde, June 5, 1996, at 4:00 p.m. Information may be obtained from Erma Alejandro, 209 North Getty, Uvalde, Texas 78801, (210) 278-4151 Ext. 10, Fax (210) 278-2929. TRD-9607519.

The Shackelford Water Supply Corporation, Director's Meeting met at the Fort Griffin Restaurant, Ablany, June 5, 1996, at Noon. Information may be obtained from Gaynell Perkins, Box 11, Albany, Texas 76430, (817) 345-6868, or (915) 752-2575. TRD-9607480.

The Dallas Central Appraisal District, Board of Directors' Regular Meeting met at 2949 North Stemmons Freeway, Second Floor Community Room, Dallas, June 5, 1996, at 7:30 a.m. Information may be obtained from Rick Kuehler, 2949 North Stemmons Freeway, Dallas, Texas 75247, (214) 631-0520. TRD-9607514.

Meetings Filed on May 30, 1996

The Dallas Central Appraisal District, Board of Directors' Regular Meeting met at 2949 North Stemmons Freeway, Second Floor Community Room, Dallas, June 5, 1996, at 7:30 a.m. Information may be obtained from Rick Kuehler, 2949 North Stemmons Freeway, Dallas, Texas 75247, (214) 631-0520. TRD-9607514

The Garza Central Appraisal District, Board of Directors will meet at 124 East Main, Post, June 11, 1996, at 9:00 a.m. Information may be obtained from Billie Y. Windham, P.O. Drawer F, Post, Texas 79356, (806) 495-3518. TRD-9607516.

The Lavaca County Central Appraisal District, Appraisal Review Board will meet at 103 North Main Street, Hallettsville, June 12, 1996, at 9:00 a.m. Information may be obtained from Diane Munson, P.O. Box 386, Hallettsville, Texas 77964, (512) 798-4396. TRD-9607565.

The North Texas Regional Library System, Board of Directors will meet at 1111 Foch Street, Fort Worth, June 13, 1996, at 1:30 p.m. Information may be obtained from Cynthia Brown, 1111 Foch Street, Suite 100, Fort Worth, Texas 76107, (817) 335-6076. TRD-9607522.

Meetings Filed May 31, 1996

The Aqua Water Supply Corporation, Board of Directors met at 305 Eskew, Bastrop, June 3, 1996, at 7:30 p.m. Information may be

obtained from Adlinie Rathman, P.O. Drawer P, Bastrop, Texas, 78602, (512) 303-3943. TRD-9607577.

The Creedmoor Maha Water Corporation Monthly Board Meeting met at 1699 Laws Road, Mustage Ridge, June 5, 1996, at 7:30 p.m. Information may be obtained from Charles Laws, 1699 Laws Road, Buda, Texas 78610, (512) 243-2113. TRD-9607645.

The Dawson County Central Appraisal District, Board of Directors met at 1806 Lubbock Highway, Lamesa, June 5, 1996, at 7:00 a.m. Information may be obtained from Tom Anderson, P.O. Box 797, Lamesa, Texas 79331, (806) 872-7060. TRD-9607647.

The Education Service Center Region XX, Board of Directors met at 400 East Spring Valley Road, Richardson, June 6, 1996, at 12:45 p.m. Information may be obtained from Joe Farmer, 400 East Spring Valley Road, Richardson, Texas 75081, (214) 231-6301, Ext. 301. TRD-9607600.

The Education Service Center XVIII, Board of Directors met at 2811 LaForce Boulevard, Midland, June 6, 1996, at 6:00 p.m. Information may be obtained from Dr. Vernon Stokes, P.O. Box 60580, Midland, Texas 79711, (915) 563-2380. TRD-9607633.

The Stephens County Rural WSC, Regular Monthly Board Meeting met at 301 West Elm Street, Breckenridge, June 6, 1996, at 7:00 p.m. Information may be obtained from Mary Barton, P.O. Box 1621, Breckenridge, Texas 76424, (817) 559-6180. TRD-9607614.

The Swisher County Appraisal District, Appraisal Review Board met at 130 North Armstrong, Tulia, June 6, 1996, at 10:00 a.m. Information may be obtained from Rose Lee Powell, P.O. Box 8, Tulia, Texas 79088, (806) 995-4118.

Meetings Filed June 3, 1996

The Bandera County Appraisal District, Appraisal Review Board will meet at the Bandera County Appraisal District, 1116 Main Street, Bandera, June 11, 1996, at 3:00 p.m. Information may be obtained from P.H. Coates, IV, P.O. Box 1119, Bandera, Texas 78003, (210) 796-3039, Fax (210) 796-3672. TRD-9607679.

The Barton Springs/Edwards Aquifer Conservation District, Board of Directors-Called Meeting-Work Session, met at 1124A Regal Row, Austin, June 6, 1996, at 9:00 a.m. Information may be obtained from Bill E. Couch, 1124 Regal Row, Austin, Texas 789748, (512) 282-8441, (512) 282-7016. TRD-9607658.

The Central Counties Center for MHMR Services, Board of Director met at 304 South 22nd Street, June 6, 1996, at 6:00 p.m. Information may be obtained from Eldon Tietje, 304 South 22nd Street, Temple, Texas 76501, (817) 778-4841, Ext. 301. TRD-9607651.

The San Antonio-Bexar County Metropolitan Planning Organization, Technical Advisory Committee will meet at 603 Navarro, South Texas Building, Fourth Floor, Conference Room, San Antonio, June 7, 1996, at 1:30 p.m. Information may be obtained from Charlotte A. Roszelle, 603 Navarro, Suite 904, San Antonio, Texas 78205, (210) 227-8651. TRD-9607659.

# IN ADDITION

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The *Texas Register* is required by statute to publish certain documents, including applications to purchase control of state banks, notices of rate ceilings, changes in interest rate and applications to install remote service units, and consultant proposal requests and awards.

To aid agencies in communicating information quickly and effectively, other information of general interest to the public is published as space allows.

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Texas Department of Commerce

#### Notification of Consulting Contract Award

This notification of a consulting contract award is filed by the Texas Department of Commerce pursuant to the Government Code, Chapter 2254, Subchapter B. §2254.030.

The consultant will conduct the following services:

#### Scope of Services–Cost Allocation Plan

The consultant will develop detailed cost allocation plans, and render the following services and reports: 1. Identify the sources of financial information to be used. 2. Classify all Commerce divisions, commissions and boards. 3. Inventory all federal and other programs administered by Commerce. 4. Determine administrative departments. 5. Determine allocation bases for allocating services to benefiting divisions. 6. Develop allocation data for each allocation base. 7. Prepare cost allocation worksheet based upon actual expenditures for FY 1995 and for the six month period in FY 1996 ending February 28, 1996. 8. Identify in a separate schedule the federally reimbursable indirect costs. 9. Summarize costs by benefiting division. 10. Collect cost data for all of the programs included in the inventory of federal programs and other programs administered by Commerce. 11. Determine indirect cost rates throughout Commerce on an annual basis. 12. Formalize plan and present to the U.S. Department of Labor. 13. Negotiate final plan and secure approval from the U.S. Department of Labor. 14. Provide indoctrination session for assigned personnel.

The consultant's staff will accumulate and analyze all data that is required in order to provide the cost allocation plans. Commerce will not provide any staff time to the consultant, no time sheets will

be required and no accounting methods or records will need to be changed. The cost allocation plan must be completed and submitted to the U.S. Department of Labor no later than the date authorized by the U.S. Department of Labor.

The consultant selected for this project is David M. Griffith & Associates, LTD., 13601 Preston Road, Suite 400 W, Dallas, Texas 75240.

David M. Griffith & Associates, LTD., will perform the consulting services for a cost not to exceed \$36,000. The contract began on May 28, 1996 and will end on August 31, 1997. After the plans are submitted to Commerce, they will be submitted to the cognizant federal agency and the negotiation process for approval of the plans will begin. Finalized and negotiated cost allocation plans will be provided to Commerce no later than August 31, 1997.

Issued in Austin, Texas, on May 31, 1996.

TRD-9607650

W. Lane Lanford

Director, Business and Fiscal Services

Texas Department of Commerce

Filed: May 31, 1996

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Office of Consumer Credit Commissioner

#### Notice of Rate Ceilings

The Consumer Credit Commissioner of Texas has ascertained the following rate ceilings by use of the formulas and methods described in Title 79, Texas Civil Statutes, Article 1.04, as amended (Texas Civil Statutes, Article 5069–1.04).



Issued in Austin, Texas, on May 30, 1996.

9607515

Leslie L. Pettijohn

Commissioner

Office of Consumer Credit Commissioner

Filed: May 30, 1996



Texas Education Agency

Request for Applications Concerning Public Law 103-382, Elementary and Secondary Education Agency Act (ESEA) Title I, Part A—Capital Expenses, 1996-1997

Filing Authority. The availability of grant funds under Request for Applications (RFA) #701-96-024 is authorized by Public Law 103-382, Elementary and Secondary Education Act (ESEA), Title I, Part A, §1120(e).

Eligible Applicants. The Texas Education Agency (TEA) is requesting applications from school districts that have incurred capital expenses since July 1, 1985, as a result of implementation of alternative delivery systems to comply with the requirements of *Aguilar v. Felton* in providing Title I, Part A, services to students attending private, religiously affiliated schools.

Description. Under Public Law 103-382, Title I, Part A, §1120(e), the term "capital expenses" means expenditures for noninstructional goods and services, such as: the purchase, lease, rental, and renovation of real and personal property (including, but not limited to, mobile educational units and leasing of neutral sites or space); insurance and maintenance costs; transportation; technician costs for the supervision of computer-assisted instruction (CAI); and other comparable goods and services. Under 34 Code of Federal Regulations (CFR), §200.16, capital expenses do not include the purchase of instructional equipment such as computers.

Dates of Project. The Title I, Part A – Capital Expenses, project will be implemented during the 1996-1997 school year, starting no earlier than September 16, 1996, and ending no later than June 30, 1997.

Project Amount. A state total of \$1,226,953 is projected for these projects, which are funded 100% from ESEA, as amended by Public Law 103-382, Title I, Part A – Capital Expenses.

Selection Criteria. Applications submitted in response to this request for applications must meet the following conditions to be considered for approval. 1) The local education agency (LEA) must be planning to incur capital expenses during the 1996-1997 school year. 2) Awards to LEAs for current-year capital expenses will be based on the total number of points accrued under the following criteria: the average amount of funds (according to the Standard Application System 201) the LEA has paid for capital expenses for the years 1985-1986, 1986-1987, 1987-1988, 1988-1989, 1989-1990, 1990-1991, 1991-1992, 1992-1993, 1993-1994, 1994-1995, and 1995-1996; the percentage of increase in the number of students from religiously affiliated private schools who are served in 1996-1997, compared with the average of the years 1990-1991, 1991-1992, 1992-1993, 1993-1994, 1994-1995, and 1995-1996; the average percentage of funds the LEA has paid for capital expenses in relation to its basic ESEA, Title I, Part A (formerly Chapter 1), grant for the years 1985-1986, 1986-1987, 1987-1988, 1988-1989, 1989-1990, 1990-1991, 1991-1992, 1992-1993, 1993-1994, 1994-1995, and 1995-1996; and the average expenditure per private school student served.

The TEA reserves the right to select from the highest ranking applications those that address all requirements in the RFA. If the level of funding is insufficient to fund all eligible applicants, a prorated share will be granted. The TEA is not obligated to approve an application, provide funds, or endorse any application submitted in response to this RFA. This RFA does not commit TEA to pay any costs incurred before an application is approved. The issuance of this RFA does not obligate TEA to award a grant or pay any costs incurred in preparing a response.

Requesting the Application. A complete copy of RFA #701-96-024 may be obtained by writing the: Document Control Center, Room 6-108, Texas Education Agency, William B. Travis Building, 1701 North Congress Avenue, Austin, Texas 78701-1494, or by calling (512) 463-9304. Please refer to the RFA number in your request.

Further Information. For clarifying information about the RFA, contact Vivian Smyrl, Division of Accelerated Instruction, Texas Education Agency, (512) 463-9374.

Deadline for Receipt of Applications. Applications must be received in the Document Control Center of the Texas Education Agency by 5:00 p.m., Monday, September 16, 1996, to be considered.

Issued in Austin, Texas, on June 3, 1996.

TRD-9607672

Criss Cloudt

Associate Commissioner for Policy Planning and Research

Texas Education Agency

Filed: June 3, 1996



Texas Environmental Awareness Network

Notice of Monthly Meeting of the Texas Environmental Awareness Network

Tuesday, June 11, 1996 8:30am TEAN will meet at its usual location, the Texas Parks and Wildlife Department, Wild Basin Preserve Offices, 805 South Capital of Texas Highway, Austin, TX 78746. Agenda 1. Approval of Minutes for meeting of May 14, 1996 2. Consideration of by-law changes affecting voting membership on steering committee (Bill Stout) 3. Discussion of Eye on Earth for 1996-1997 (Irene Pickhardt and others) 4. Strategic planning for education at TPWD (Bob Murphy) 5. Earth sciences instructional materials presented through video disk technology (Sara Burns) 6. Announcements For information about the meeting or to place an item on the agenda, contact John Hamilton, TEAN CO-Chair, by mail at General Land Office, 1700 Congress Avenue, Austin, TX 78701, or by phone at (512) 463-5310;.

Issued in Austin, Texas, on May 30, 1996.

9607546

Sigrid Clift

Interim Secretary

Texas Environmental Awareness Network

Filed: May 30, 1996

Texas Department of Health

Notice of Emergency Impoundment Order

Notice is hereby given that the Bureau of Radiation Control (bureau) ordered William J. Clouse, D.P.M. (registrant-R11313) of San Antonio to immediately surrender to the bureau for impoundment all sources of radiation possessed under the certificate of registration. The bureau determined that the registrant had failed to comply with the Order of Revocation issued by the bureau on February 8, 1996. Continued operation of x-ray equipment without a valid certificate of registration and failure to comply with the Order of Revocation constitute an immediate threat to public health and safety, and the existence of an emergency. The order will remain in effect until the bureau has received, reviewed, and approved the actions taken to ensure compliance with the Order of Revocation.

A copy of all relevant material is available for public inspection at the Bureau of Radiation Control, Exchange Building, 8407 Wall Street, Austin, Monday-Friday, 8:00 a.m. to 5:00 p.m. (except holidays).

Issued in Austin, Texas, on May 31, 1996.

9607584

Susan K. Steeg

General Counsel

Texas Department of Health

Filed: May 31, 1996

Notice of Radioactive Material License Amendment

Notice is hereby given by the Texas Department of Health that it has granted amendment Number 43 to Radioactive Material License Number L01811, issued to Nuclear Sources and Services, Inc., doing business as NSSI/Recovery Services, Inc., for their facility located in Houston, Texas (mailing address: Nuclear Sources and Services, Inc., P. O. Box 34042, Houston, Texas 77034).

The amendment to this license results in the following changes to the license:

1. Modifies Condition 17 which pertains to maintaining a waste inventory by removing the quarterly reporting requirement and requiring instead that the record be maintained for inspection by the Agency.
2. Modifies Condition 21 to require the licensee to maintain a copy of inventory records for inspection by the Agency
3. Makes certain ministerial changes to the license condition to correct an error from the previous amendment, to replace certain references to the Texas Regulations for Control of Radiation (TRCR) with the correct reference, and to separate out a portion of a condition into a separate condition.
4. Deletes a condition that is now superseded by a revision to the TRCR.
5. Revises Condition 35 to require insurance coverage by license condition that was previously required by the TRCR.

The Division of Licensing, Registration and Standards has determined that the licensee has met the standard(s) appropriate to this amendment: a) the licensee is qualified by reason of training and experience to use the material in question for the purpose requested in accordance with the Texas Regulations for Control of Radiation (TRCR) in such a manner as to minimize danger to public health and safety or property; b) the licensee's equipment, facilities and procedures are adequate to minimize danger to public health and safety or property; c) that there is reasonable assurance that the radioactive waste facility is sited, designed, operated and will be decommissioned and closed in accordance with the requirements of Part 44 of the TRCR; d) the issuance of the license amendment will not be inimical to the health and safety of the public or the environment; and e) the licensee satisfies any applicable special requirements of the TRCR.

Notice of Radioactive Material License Amendment

This notice affords the opportunity for a public hearing upon written request within thirty days of the date of publication of this notice by a person affected as required by §401.116, Health and Safety Code, as amended, and as set out in TRCR 13.6. A "person affected" is defined as a person who is a resident of a county, or a county adjacent to a county, in which the radioactive materials are or will be located, including any person who is doing business or who has a legal interest in land in the county or adjacent county, and any local government in the county; and who can demonstrate that he has suffered or will suffer actual injury or economic damage. A person affected may request a hearing by writing Richard A. Ratliff,

P.E., Chief, Bureau of Radiation Control (Director, Radiation Control Program), 1100 West 49th Street, Austin, Texas 78756-3189. Any request for a hearing must contain the name and address of the person who considers himself affected by Agency action, identify the subject license, specify the reasons why the person considers himself affected, and state the relief sought. If the person is represented by an agent, the name and address of the agent must be stated. Should no request for a public hearing be timely filed, the amendment will remain in effect.

A copy of all material submitted is available for public inspection at the Bureau of Radiation Control, 8407 Wall Street, Austin, Texas. Information relative to the amendment of this specific radioactive material license may be obtained by contacting Mr. Richard A. Ratliff, P.E., Chief, Bureau of Radiation Control (Director, Radiation Control Program), 1100 West 49th Street, Austin, Texas 78756. For further information, please call (512) 834-6688.

Issued in Austin, Texas, on May 31, 1996.

9607583

Susan K. Steeg

General Counsel

Texas Department of Health

Filed: May 31, 1996, 9:51 a.m.

Notice of Rescission of Order

Notice is hereby given that the Bureau of Radiation Control, Texas Department of Health, rescinded the following order: Emergency Cease and Desist Order issued April 26, 1996, to Bee County Regional Medical Center, 1500 East Houston, Beeville, Texas 78102, holder of Certification of Mammography Systems Number M00607.

A copy of all relevant material is available for public inspection at the Bureau of Radiation Control, Exchange Building, 8407 Wall Street, Austin, Monday-Friday, 8:00 a.m. to 5:00 p.m. (except holidays).

Issued in Austin, Texas, on May 31, 1996.

9607582

Susan K. Steeg

General Counsel

Texas Department of Health

Filed: May 31, 1996, 9:51 a.m.

Texas Department of Insurance

Insurer Services

The following applications have been filed with the Texas Department of Insurance and are under consideration:

Application for admission in Texas for ARAG Insurance Company, a foreign prepaid legal company. The home office is in Des Moines, Iowa.

Application for admission in Texas for Industrial Indemnity Company of the Northwest, a foreign fire and casualty company. The home office is in Seattle, Washington.

Application for a name change in Texas for American Combined Life Insurance Company, a foreign life, accident and health company. The proposed new name is Combined American Insurance Company. The home office is in Chicago, Illinois.

Application for a name change in Texas for Aetna Life Insurance Company of Illinois, a foreign life, accident and health company. The

proposed new name is Aetna Health and Life Insurance Company. The home office is in Hartford, Connecticut.

Application for a name change in Texas for Bankers and Shippers Insurance Company, a foreign fire and casualty company. The proposed new name is Integon National Insurance Company. The home office is in Winston-Salem, North Carolina.

Any objections must be filed within 20 days after this notice was filed with the Texas Department of Insurance, addressed to the attention of Cindy Thurman, 333 Guadalupe Street, M/C 305-2C, Austin, Texas 78701.

Issued in Austin, Texas on June 3, 1996.

TRD-9607682

Alicia M. Fechtel

General Counsel and Chief Clerk

Texas Department of Insurance



Texas Department of Licensing and Regulation

Correction of Error

The Texas Department of Licensing and regulation proposed amendments to §§65.10, 65.20, 65.50, and 65.80. The rules appeared in the May 31, 1996, issue of the *Texas Register* (21 TexReg 4879).

The correct fiscal impact is \$15,000 per year.

Texas Natural Resource Conservation Commission

Enforcement Orders

An agreed enforcement order was entered regarding ISLAND MOORINGS MARINA, INC., Docket Number 96-0776-PST-E (TNRCC FACILITY #53143, Enforcement ID E11399) on May 23, 1996 assessing \$1,260 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Raymond Winter, Staff Attorney, at (512) 239-0600 or Srinu Kusumanchi, Enforcement Coordinator, (512) 239-2126, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas.

An agreed enforcement order was entered regarding RIP GRIFFIN TRUCK SERVICE CENTER, Docket Number 96-0365-PST-E (TNRCC FACILITY #44312, Enforcement ID E11391) on May 23, 1996 assessing \$600 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Raymond Winter, Staff Attorney, at (512) 239-0600 or Jaime Lopez, Enforcement Coordinator, (512) 239-2126, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas.

An agreed enforcement order was entered regarding the CITY OF BEEVILLE, Docket Number 96-0559-PST-E (TNRCC FACILITY #37133, Enforcement ID E11089) on May 23, 1996 assessing \$1,620 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Raymond Winter, Staff Attorney, at (512) 239-0600 or Jaime Lopez, Enforcement Coordinator, (512) 239-2126, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas.

An agreed enforcement order was entered regarding RECOVERED OIL SERVICES, Docket Number 94-0031-IHW-E (SWR Nos. 40745, 81224 & 81223) on May 23, 1996 assessing \$189,840 in administrative penalties deferring the entire amount.

Information concerning any aspect of this order may be obtained by contacting Gregory Warmink, Staff Attorney, at (512) 239-0612 or Ravi Rao, Enforcement Coordinator, (512) 239-2559, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas.

An agreed enforcement order was entered regarding the ESTATE OF GERALD ENGLISH doing business as ENGLISH ACRES WATER SYSTEM, Docket Number 95-1180-PWS-E (PWS Number 1250033, No CCN Number) on May 23, 1996 assessing \$1,375 in administrative penalties with \$412 deferred.

Information concerning any aspect of this order may be obtained by contacting Steve Shepherd, Staff Attorney, at (512) 239-0464 or Terry Thompson, Enforcement Coordinator, (512) 239-6095, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas.

Issued in Austin, Texas, on May 31, 1996.

9607602

Gloria A. Vasquez

Chief Clerk

Texas Natural Resource Conservation Commission

Filed: May 31, 1996

Notice of Application to Appropriate Public Waters of the State of Texas

The following notices of application for permits to appropriate Public Waters of the State of Texas were issued during the period May 9, 1996 through May 31, 1996:

WILLIAM G. FIELDING; Application Number 4566A to amend Permit Number 4257 pursuant to §11.122, Texas Water Code, and TNRCC Rules 30 TAC §295.1, et seq. Permit Number 4257, issued 12-2-85, with a priority date of 5-21-85, authorized owners to directly divert and use not to exceed 194 acre-feet of water per annum from the Pedernales River, Colorado River Basin, at a rate of 700 gallons per minute (gpm) to irrigate 97 acres of land in Blanco County, Texas. The permit contains two Special Conditions, which are: 1) permittees are authorized to divert water only when flow of Pedernales River equals or exceeds 6.5 cubic feet per second (2,918 gallons per minute) at a reference device to be installed by permittees prior to diversion immediately below the most downstream diversion point, and 2) permit expires 12-31-95 unless permittees apply for an extension prior to expiration and application is subsequently granted for an additional term or in perpetuity. Applicant is seeking to amend the permit by deleting or extending the expiration date of the original permit.

CITY OF AUSTIN; Application Number 14-5489A to amend Certificate of Adjudication Number 14-5489 pursuant to §11.122, Texas Water Code, and TNRCC Rules 30 TAC §295.1, et seq. The Certificate was issued 6-28-89 and authorized owner to maintain an existing dam and reservoir (Lake Walter E. Long) on Decker Creek, tributary of Gilliland Creek, tributary of the Colorado River, Colorado River Basin, and to impound therein not to exceed 33,940 acre-feet of water. The reservoir is in Travis County, approximately 8.3 miles east of Austin, Texas. The impoundment authorization has a time priority of February 23, 1965. Applicant is seeking to amend the certificate to increase the impoundment capacity of Lake Walter E. Long from

33,940 acre-feet to 36,000 acre-feet. The objective of raising the lake level is to increase storage of water for cooling at the power station. Applicant seeks only to increase the impoundment capacity of the reservoir. No additional appropriation of water is requested.

PHILLIPS 66 COMPANY Sweeny Refinery & Petrochemical Complex; Application Number 13-3423A to amend Certificate of Adjudication Number 13-3423 pursuant to §11.122, Texas Water Code, and TNRCC Rules 30 TAC §295.1, et seq. The Certificate authorized applicant to: (A) maintain a saltwater barrier on the San Bernard River, Brazos-Colorado Coastal Basin, for the purpose of creating a pumping pool, (B) maintain four off-channel reservoirs (referred to as Reservoir Nos. 1, 2, 3, and Markle Lake), and (C) divert not to exceed 25,802 acre-feet of water per annum from the pumping pool at a maximum rate of 139 cubic feet per second to the off-channel reservoirs for subsequent industrial use at the Sweeney oil refinery approximately 20 miles southwest of Angleton, Texas in Brazoria County. The time priority of the right to divert and use water and the use of Reservoir Number 1 is April 4, 1956. The time priority for Reservoir Number 2 is May 25, 1964, and the time priority for Reservoir Number 3 and Markle Lake is August 29, 1977. The certificate also includes a special condition indicating that pumping operation must be conducted such that the water elevation in the pumping pool will not be reduced below mean sea level. In addition, the certificate includes a condition that allows use of stored groundwater in Markle Lake for subsequent diversion and use. Applicant is seeking to amend Certificate of Adjudication Number 13-3423 by increasing the amount of water authorized for diversion from the pumping pool from 25,802 acre-feet per annum to 32,000 acre-feet per annum. No other changes are requested in the application.

CSR GOLF GROUP, INC. and STONEBRIDGE RANCH DEVELOPMENT, applicants, seek an extension of time to complete construction on a reservoir complex pursuant to §11.145, Texas Water Code, and TNRCC Rules 30 TAC §295.1, et seq. Pursuant to 30 TAC §295.159, the Commission will also consider whether the applicant demonstrated sufficient due diligence and had justification for the delay of this project. Water use permit Number 5072, as amended, includes authorization for Gibraltar Savings Association to impound water in fourteen reservoirs (referred to as Lakes A, B, C, 7, 10, F-1, F-2, F-3, F-4 11-A, 11-B, 11-D, 12, and 13) on unnamed tributaries of Wilson Creek, tributary of East Fork Trinity River, tributary of the Trinity River, Trinity River Basin. The permit included authorization for the reservoirs to be used for recreational purposes and for the diversion of not to exceed a total of 1130 acre-feet of commingled make-up groundwater and runoff water per year from Lakes 7, 13, and 11-B for the irrigation of not to exceed 518 acres of land within 15 tracts totaling 1860.9581 acres, located approximately 5.5 miles west-southwest of the Collin County Courthouse in McKinney, Texas. The permit included a time limitation for completion by September 29, 1991 of construction on the reservoir complex. Commission records show ownership of this water right was transferred to CSR Golf Group, Inc. and Stonebridge Ranch Development Corporation. The current owners of this water right are seeking to extend the period of time to complete construction until September 9, 1999. The primary reason for delay in construction of Lakes 11A and C is the two changes in ownership that have occurred since the original permit was issued. This has delayed development of the property and, therefore, construction of the lakes.

TWIN CREEKS GOLF CLUB; Application Number 5550 seeks a permit pursuant to §11.121, Texas Water Code, and TNRCC Rules

30 TAC ~295.1, et seq. to construct a dam and reservoir on Rowlett Creek, tributary of the Trinity River, Trinity River Basin, and impound therein not to exceed 7.4 acre-feet. Applicant is further applying for permission to divert 175 acre-feet of water per year, at a rate of 300 gallons per minute (0.67 cubic feet per second), from the referenced impoundment to irrigate a maximum of 120 acres of land located approximately 2.7 miles west of Allen and approximately 10.0 miles south of McKinney, in Collin County, Texas. As there is very little water available for appropriation at the project site, impoundment and/or diversion may be conditional upon the applicant having an alternate source of water, such as water obtained from sources which have authorization to provide such water, or with groundwater. The applicant has entered into a five year, renewable contract with the City of Dallas for the diversion amount requested in the application.

CITY OF STAMFORD; Application Number 12-4179A to amend Certificate of Adjudication Number 12-4179, pursuant to ~11.122 Texas Water Code, and Title 30 Texas Administrative Code ~295.158(c)(2)(E)-(F). The Certificate was issued to the City of Stamford on April 1, 1986 and authorized owner to maintain an existing dam and reservoir, known as Lake Stamford, on Stink Creek, tributary of Paint Creek, tributary of the Clear Fork, tributary of the Brazos River, Brazos River Basin, and to impound therein not to exceed 60,000 acre-feet of water. Owner is also authorized to divert and use not to exceed 10,000 acre-feet of water per annum from Lake Stamford for domestic, municipal, and industrial purposes in Jones County, Texas. Capacity in Lake Stamford has decreased to approximately 44,000 acre-feet due to sedimentation. Applicant seeks to amend Certificate Number 12-4179 by transferring a portion of the authorized storage in Lake Stamford to College Lake, an existing reservoir owned by the City of Stamford and used for intermediate, emergency water storage. Water will be transported from Lake Stamford to College Lake through an existing raw water transfer line. This diversion point is on the perimeter of Lake Stamford reservoir. This is NOT an increase in appropriation. College Lake is located approximately 14 miles north-northeast from the City of Anson, in Jones County, Texas. College Lake, which has existed since approximately 1916, may have been regarded as an exempt structure at the time Lake Stamford was adjudicated. College Lake has a surface area of 36.1 acres and a capacity of 190 acre-feet. The combined diversion rate from Lake Stamford and College Lake will not exceed 320.67 cfs (144,300 gpm).

The Executive Director may act on these applications unless a written hearing request that includes the following information is filed within 30 days after newspaper publication of the notice of application: (1) the name, mailing address, and daytime phone number of the person requesting the hearing; (2) the name of the applicant and the application number; (3) the statement "I/we request a public hearing;" (4) a brief description of how you would be adversely affected by the granting of the application in a way not common to the general public; and (5) the location of your property relative to the applicant's operations.

If a hearing request is filed, the Executive Director will not act on the application and will forward the application and hearing request to the TNRCC Commissioners for consideration at a scheduled Commission meeting. If a hearing is held, it will be a legal proceeding similar to civil trials in state district court.

Requests for hearing must be submitted in writing during the 30-day notice period to the Chief Clerk's Office, MC105, TNRCC, P.O. Box 13087, Austin, TX 78711-3087, telephone (512) 239-3315.

Issued in Austin, Texas, on May 31, 1996.

9607599

Gloria A. Vasquez

Chief Clerk

Texas Natural Resource Conservation Commission

Filed: May 31, 1996

Notice of Application for Waste Disposal Permits

Attached are Notices of Applications for waste disposal permits issued during the period of May 24th thru May 31, 1996.

The Executive Director will issue these permits unless one or more persons file written protests and/or a request for a hearing within 30 days after newspaper publication of this notice.

If you wish to request a public hearing, you must submit your request in writing. You must state (1) your name, mailing address and daytime phone number; (2) the permit number or other recognizable reference to this application; (3) the statement "I/we request a public hearing;" (4) a brief description of how you, or the persons you represent, would be adversely affected by the granting of the application; (5) a description of the location of your property relative to the applicant's operations; and (6) your proposed adjustment to the application/permit which would satisfy your concerns and cause you to withdraw your request for hearing. If one or more protests and/or requests for hearing are filed, the Executive Director will not issue the permit and will forward the application to the Office of Hearings Examiners where a hearing may be held. In the event a hearing is held, the Office of Hearings Examiners will submit a recommendation to the Commission for final decision. If no protests or requests for hearing are filed, the Executive Director will sign the permit 30 days after newspaper publication of this notice or thereafter. If you wish to appeal a permit issued by the Executive Director, you may do so by filing a written Motion for Reconsideration with the Chief Clerk of the Commission no later than 20 days after the date the Executive Director signs the permit.

Information concerning any aspect of these applications may be obtained by contacting the Texas Natural Resource Conservation Commission, Chief Clerks Office-MC105, P.O. Box 13087, Austin, Texas 78711, Telephone (512) 239-3300.

Listed are the name of the applicant and the city in which the facility is located, type of facility, location of the facility, permit number and type of application-new permit, amendment, or renewal.

AMERI-FORGE CORPORATION, P.O. Box 9849, Houston, Texas 77213; a metal shaping plant; the plant site is at 13770 Industrial Boulevard in the City of Houston in Harris County, Texas; major amendment; 03767.

CACHAREL TEXAS HAWAII, LTD., 2400 Ellis, Fort Worth, Texas 76106; the Walnut Creek Mobile Home Park Wastewater Treatment Facilities; the facilities are approximately 0.5 mile east of the intersection of County Road 600 and Farm-to-Market Road 917 in Johnson County, Texas; new; 13836-01.

ETHYL CORP., P.O. Box 472, Pasadena, Texas 77501; a facility that produces organic chemicals; the plant site is at 1000 N. South Avenue in the City of Pasadena in Harris County, Texas; new; 03890.

CITY OF FATE, P.O. Box 31, Fate, Texas 75132-0031; the wastewater treatment facilities are located immediately southeast of the intersection of State Highway 66 and Ivywood Lane in the City of Fate in Rockwall County, Texas; renewal; 11077-01.

CITY OF MCGREGOR, P.O. Box 192, McGregor, Texas 76657; the South Wastewater Treatment Facilities; the plant site is adjacent to and west of State Highways 317, approximately 2 miles south of the intersection of U.S. Highway 84 and State Highway 317 in McLennan County, Texas; renewal; 10219-02.

PHILLIPS PETROLEUM COMPANY, P.O. Box 866, Sweeny, Texas 77480; the Sweeny Refinery and Petrochemical Complex and the San Bernard Terminal; The plant site is approximately 3.5 miles northwest of the City of Sweeny and southwest of the intersection of State Highway 35 and Farm-to-Market Road 524, and the San Bernard Terminal is located on an extension of Avenue A about 1.5 miles northeast of the City of Sweeny, Brazoria County, Texas; major amendment; 00721.

WHITE OAK OWNERS ASSOCIATION, INC., c/o Prime Site, 8955 Katy Freeway, Suite 301, Houston, Texas 77024; the wastewater treatment facilities are at 1880 White Oak Drive, on the north side of White Oak Drive, approximately 1700 feet west of Houston Avenue in the City of Houston in Harris County, Texas; renewal; 12132-01.

Issued in Austin, Texas on May 31, 1996.

9607598

Gloria A. Vasquez

Chief Clerk

Texas Natural Resource Conservation Commission

Filed: May 31, 1996

#### Notice of Opportunity to Comment on Permitting Actions

The following applications will be signed by the Executive Director in accordance with 30 TAC 263.2, which directs the Commission's Executive Director to act on behalf of the Commission and issue final approval of certain uncontested permit matters. The Executive Director will issue the permits unless one or more persons file written protests and/or requests for hearing within 10 days of the date notice concerning the application(s) is published in the Texas Register.

If you wish to request a public hearing, you must submit your request in writing. You must state (1) your name, mailing address and daytime phone number; (2) the permit number or other recognizable reference to this application; (3) the statement "I/we request a public hearing"; (4) a brief description of how you, or the persons you represent, would be adversely affected by the granting of the application; (5) a description of the location of your property relative to the applicant's operations; and (6) your proposed adjustment to the application/permit which would satisfy your concerns and cause you to withdraw your request for hearing. If one or more protests and/or requests for hearing are filed, the Executive Director will not issue the permit and will forward the application to the Commissioners who will determine whether or not to send the matter to the State Office of Administrative Hearings. If no protests or requests for hearing are filed, the Executive Director will sign the permit 10 days after publication of this notice or thereafter. If you wish to appeal a permit issued by the Executive Director, you may do so by filing a written Motion for Reconsideration with the Chief Clerk of the Commission no later than 20 days after the date the Executive Director signs the permit.

Requests for a public hearing on this application should be submitted in writing to the Chief Clerk's Office (Mailcode 105), Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711, Telephone (512) 239-3300.

Consideration of the application of South Road Water Supply Corporation to acquire facilities and transfer water CCN Number 11577 from Los Escondidos Corporation in Burnet County, Texas. (Application #31058-S, Dean Pollard)

Consideration the application of City of Hays to amend Water Certificate of Convenience and Necessity Number 11457 by Adding and Decertifying Service Areas in Hays County, Texas. (Application # 31132-C, Albert Holck)

CITY OF HOUSTON, Department of Public Works and Engineering for a minor amendment to Permit Number 10495-129 to add the latest 30 TAC Chapter 312 sludge provisions. The current permit authorizes a discharge of treated domestic wastewater effluent at an interim volume not to exceed an average flow of 350,000 gallons per day and a final volume not to exceed an average flow of 800,000 gallons per day, which will remain the same. The wastewater treatment facilities are approximately 2400 feet east of the intersection of Farm-to-Market Road 1960 and Farm- to-Market Road 149 and 850 feet north of Farm-to-Market Road 1960 on the west side of the F.W. & D. Rock Island Railroad in Harris County, Texas.

DICKSON WEATHERPROOF NAIL COMPANY AND CDC COATINGS COMPANY for a minor amendment to Permit Number 02650 in order to revise the biomonitoring requirements following completion of a toxicity reduction evaluation. The permit currently authorizes a discharge of treated process wastewater (spent plating and wash water) at a volume not to exceed an average flow of 15,000 gallons per day, which will remain the same. The applicant operates a cold weld mechanical galvanizing process facility that galvanizes small metal parts. The plant site is at 14820 Talcott in the City of Channelview in Harris County, Texas.

CITY OF HOUSTON, Department of Public Works and Engineering for a minor amendment to Permit Number. 10495-123 to revise the sludge provisions of the existing permit in accordance with 30 TAC Chapter 312. The current permit authorizes a discharge of treated domestic wastewater effluent at a volume not to exceed an average flow of 250,000 gallons per day, which will remain the same. The wastewater treatment facilities are just south of Aldine Bender Road and approximately 4,500 feet east of John F. Kennedy Boulevard in the City of Houston in Harris County, Texas.

ALBEMARLE CORPORATION for a minor amendment to Permit Number 00492 to delete stormwater Outfall 002 and internal Outfalls 101, 201, 301 and 401 from the existing permit. The proposed amendment would authorize a discharge of treated process water commingled with stormwater runoff and previously monitored effluent at a volume not to exceed an average flow of 6,164,000 gallons per day and intermittent discharges of nonprocess area stormwater via Outfalls 003 and 004. The applicant operates the Houston Plant which manufactures industrial organic and inorganic chemicals. The plant site is at 2500 North South Street in the City of Pasadena in Harris County, Texas.

CITY OF HOUSTON, Department of Public Works and Engineering for a minor amendment to Permit Number 10495-020 in order to revise sludge provisions of the existing permit in accordance with 30 TAC Chapter 312. The permit currently authorizes a discharge

of treated domestic wastewater effluent at a volume not to exceed an average flow of 1,400,000 gallons per day, which will remain the same. The Gulf Meadows Wastewater Treatment Facilities are approximately 12.3 miles southeast of the downtown Houston central business district at 11030 Gulfdale, 0.5 mile east of State Highway 35 and approximately 0.5 mile north of Clear Creek in Harris County, Texas.

CITY OF HOUSTON, Department of Public Works and Engineering for a minor amendment to Permit Number 10495-037 in order to revise sludge provisions of the existing permit in accordance with 30 TAC Chapter 312. The permit currently authorizes a discharge of treated domestic wastewater effluent at a volume not to exceed an average flow of 60,000,000 gallons per day, which will remain the same. The Southwest Wastewater Treatment Facilities are at the intersection of Beechnut Street and Newcastle Street, approximately 0.5 mile northeast of the intersection of Interstate Highway 610 and Post Oak Road in Harris County, Texas.

CITY OF HOUSTON, Department of Public Works and Engineering, for a minor amendment to Permit Number 10495-053 in order to revise sludge provisions of the existing permit in accordance with 30 TAC Chapter 312. The permit currently authorizes a discharge of treated domestic wastewater effluent at a volume not to exceed an average flow of 4,000,000 gallons per day, which will remain the same. The WCID #51 Wastewater Treatment Facilities are at 4900 Gallagher in the City of Houston, Harris County, Texas.

CITY OF HOUSTON, Department of Public Works and Engineering for a minor amendment to Permit Number 10495-078 in order to revise sludge provisions of the existing permit in accordance with 30 TAC Chapter 312. The permit currently authorizes a discharge of treated domestic wastewater effluent not to exceed an average flow of 8,000,000 gallons per day, which will remain the same. The Intercontinental Airport Wastewater Treatment Facilities are located south of and adjacent to Rankin Road and approximately 3,000 feet east of Aldine-Westfield and Rankin Road intersection in the City of Houston in Harris County, Texas.

CITY OF HOUSTON, Department of Public Works and Engineering for a minor amendment to Permit Number 10495-099 in order to revise sludge provisions of the existing permit in accordance with 30 TAC Chapter 312. The permit currently authorizes a discharge of treated domestic wastewater effluent at a final volume not to exceed an average flow of 4,000,000 gallons per day, which will remain the same. The White Oak Wastewater Treatment Facilities are on the north bank of Whiteoak Bayou, approximately 500 feet west of the crossing of Whiteoak Bayou by North Houston Rosslyn Road in the City of Houston in Harris County, Texas.

Signature of a Proposed Order Approving the Application by Reid Road Municipal Utility District Number 1 of Harris County for Approval of \$1,845,000 Unlimited Tax and Revenue Bonds, Fourth Issue, 6.82% Net Effective Interest Rate, Series 1996. Applicant requests approval of a bond issue to finance engineering and construction costs of water, wastewater and drainage utilities to serve Harvest Bend Sections 7 & 8; provide rehabilitation of an existing 15" trunk wastewater line along Broken Sky Drive; provide television investigation, cleaning and rehabilitation of existing wastewater lines throughout the District; and construction of permanent lift stations at the K-Mart Center and Cypress Plaza Center and the abandonment of existing temporary lift stations. (TNRCC Internal Control Number 010296-D03, Rob Cummins)

Signature of a Proposed Order Approving the Application by Spring Creek Utility District of Montgomery County for Approval of \$1,525,000 Unlimited Tax and Revenue Bonds, Fourth Issue, 7.207% Net Effective Interest Rate, Series 1996. Applicant requests approval of a bond issue to finance engineering and construction costs associated with a .125 mgd expansion to the District's wastewater treatment plant; improvements to the Buckminster Lift Station; and water, wastewater and drainage facilities to serve the Spring Creek Pines development. (TNRCC Internal Control Number 120495-D02, Rob Cummins).

Issued in Austin, Texas, on May 31, 1996.

9607601

Gloria A. Vasquez

Chief Clerk

Texas Natural Resource Conservation Commission

Filed: May 31, 1996

Request for Proposal

The Texas Natural Resource Conservation Commission (TNRCC) seeks proposals from qualified attorneys/law firms to provide legal services relating to development of a contract shell library containing standardized contract forms and provisions for pollution cleanup contracts, leaking petroleum storage tank cleanup contracts, air quality monitoring and research contracts, water quality monitoring and research contracts, and other contracts it may seek to procure.

Scope of Work. The successful proposer will be required to recommend an electronic format for the TNRCC's contract shell library, research several specified contract issues, and develop standard contract documents to be used by the TNRCC for the procurement of contracts including pollution cleanup contracts, leaking petroleum storage tank contracts, air and water quality monitoring and research contracts, and water quality, used oil, and tire recycling grants (grants from the TNRCC).

Procedure for Selecting Consultant. Proposal requirements will be set forth more fully in a "Request for Proposal: Legal Services." Proposals will be evaluated on the basis of the following criteria: Firm Profile (05 points), Firm References (10 points), Professional Staff Roles, Resumes and professional references (25 points), Proposed Approach to the Project (25 points), Composite Time Line (10 points), Cost of Project (25 points), and Additional Information (supplemental points).

Proposal Closing. Responses must be received no later than 3:00 p.m., June 21, 1996. Responses received after this date and time will not be considered.

Disclosure by Former Employees of a State Agency. Any individual who responds to this RFP and offers consulting services to the TNRCC by submitting a proposal, and who has been employed by the TNRCC, or by another agency of the state at any time during the two years preceding the making of the offer shall disclose such facts in the proposal: the agency name, the date of termination of the employment, and the annual rate of compensation for the employment at the time of resignation.

Contract Award. The TNRCC reserves the right to accept or reject any, or all, proposals submitted in response to this request and to negotiate modifications necessary to improve the quality or cost effectiveness of any offer received. TNRCC is under no legal obligation to enter into a contract with any proposer on the

basis of this request and intends any material provided herein only as a means of identifying the scope of services requested. The TNRCC assumes no responsibility for expenses incurred in preparing a proposal response to this solicitation.

Obtaining Request for Proposal. Copies of the RFP may be obtained in any of the following ways: by sending a regular or certified letter, telefax, or express/overnight letter (including a self-addressed, pre-paid return envelope if return is desired by express/overnight delivery) requesting a copy to: Katharine Marvin, Contracts Coordinator (MC-173), Texas Natural Resource Conservation Commission, P. O. Box 13087, Austin, Texas, 78711-3087, telefax: (512) 239-0606.

Please address all responses to the RFP to this same address.

Issued in Austin, Texas, on June 3, 1996.

TRD-9607680  
Kevin McCalla  
Director, Legal Division  
Barry Irwin, Agency Liaison  
Texas Natural Resource Conservation Commission  
Filed: June 3, 1996

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Public Utility Commission of Texas

Notice of Intent to File Pursuant to Public Utility Commission Substantive Rule 23.27

Notice is given to the public of the intent to file with the Public Utility Commission of Texas an application pursuant to Public Utility Commission Substantive Rule 23.27 for approval of customer-specific PLEXAR-Custom Service for Nations Bank in Houston, Texas.

Tariff Title and Number. Application of Southwestern Bell Telephone Company for PLEXAR-Custom Service for Nations Bank in Houston, Texas. Pursuant to Public Utility Commission Substantive Rule 23.27. Tariff Control Number 15912.

The Application. Southwestern Bell Telephone Company is requesting approval of a 405 station addition to the existing PLEXAR-Custom service for Nations Bank. The geographic service market for this specific service is the Houston, Texas area.

Persons who wish to comment upon the action sought should contact the Public Utility Commission of Texas, at 7800 Shoal Creek Boulevard, Austin, Texas 78757, or call the Public Utility Commission Consumer Affairs Division at (512) 458-0256, or (512) 458-0221 for teletypewriter for the deaf.

Issued in Austin, Texas, on May 29, 1996.

TRD-9607498  
Secretary of the Commission  
Public Utility Commission of Texas  
Filed: May 29, 1996

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Public Notice

On May 24, 1996, Southwestern Bell Telephone Company (SWB) filed notice to file LRIC studies pursuant to Substantive Rule 23.91 for Billing and Collection Service, Single Line Residence sage Service, and Single Line Business Usage Service in Project Numbers 12475 and 12481, Applications of Southwestern Bell Telephone Company and GTE Southwest, Inc. for Approval of LRIC Workplans Pursuant

to Substantive Rule 23.91. SWB expects to file these studies on June 8, 1996.

Persons who wish to intervene or otherwise participate in these proceedings should make appropriate filings or comments to the Commission by July 11, 1996. A request to intervene, participate, or for further information should be mailed to the Public Utility Commission of Texas, 7800 Shoal Creek Boulevard, Suite 400N, Austin, Texas 78757. Further information may also be obtained by calling the Public Utility Commission Public Information Office at (512) 458-0256. The telecommunications device for the deaf (TDD) is (512) 458-0221.

Issued in Austin, Texas, on May 29, 1996.

TRD—9607499  
Paula Mueller  
Secretary of the Commission  
Public Utility Commission of Texas

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Texas Department of Transportation

Request for Proposals

Notice of Invitation: The Texas Department of Transportation (TxDOT) intends to engage an engineer, pursuant to Texas Government Code, Chapter 2254, Subchapter A, and 43 TAC §§9.30–9.40, to provide the following services. The engineer selected must perform a minimum of 30% of the actual contract work to qualify for contract award.

Contract Number 17-645P5010: For Engineering Services to conduct Speed Surveys for Establishing Regulatory Speed Zones on State Highways in the Bryan district.

Deadline: A letter of interest notifying TxDOT of the provider's intent to submit a proposal will be accepted by fax at (409) 778-9702, or hand-delivered or mailed to TxDOT, Bryan District Office, 1300 North Texas Avenue, Bryan, Texas 77803-2760. Letters of interest will be received until 5:00 p.m. on Wednesday, June 19, 1996. The letter of interest must include the engineer's firm name, address, telephone number, name of engineer's contact person and TxDOT contract number. Upon receipt of the letter of interest a Request for Proposal packet will be issued. (Note: Written requests, either by mail/hand delivery or fax, will be required to receive a Request for Proposal packet. TxDOT will not issue a Request for Proposal packet without receipt of a letter of interest.)

Proposal Submittal Deadline: Proposals for Contract Number 17-645P5010 will be accepted until 5:00 p.m. on Monday, July 8, 1996 at the TxDOT Bryan District Office, 1300 North Texas Avenue, Bryan, Texas 77803-2760.

Agency Contact: Requests for additional information regarding this notice of invitation should be addressed to Phillip E. Russell, P.E., at (409) 778-9713 or fax (409) 778-9702.

Issued in Austin, Texas on May 30, 1996.

-9607568  
Robert E. Shaddock  
General Counsel  
Texas Department of Transportation  
Filed: May 30, 1996

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In the May 31, 1996 issue of the *Texas Register* (21 TexReg 4914), the Texas Department of Transportation published a request for proposal for engineering services in Grayson County which included a deadline of June 14, 1996 for submittal of a letter of interest. The notice incorrectly referred to engineering services instead of surveying services. The following request for proposals replaces the original published on May 31, 1996 and also extends the deadline for submitting a letter of interest.

Notice of Invitation: The Texas Department of Transportation (TxDOT) intends to engage a professional surveyor, pursuant to Texas Government Code, Chapter 2254, Subchapter A to provide the following services.

Contract Number 01-7XXP1001: To provide surveying services for highway and bridge construction projects in Grayson County. The scope of services includes field and office work for route surveying, taking cross-sections (roadway and channel), taking topography, locating utilities, determining drainage areas, stream profile and channel meander, establishing centerline for seal coat projects, right-of-way determination and map preparation, and any other survey work considered necessary by the Surveyor. This contract will be a general project contract for work in Grayson County. Actual location and types of surveys will be determined on a project-specific basis. Surveyor's office should be located within a 100-mile radius of the TxDOT area office in Sherman. The contract period will be from September 1, 1996 to August 31, 1998.

Deadline: A letter of interest notifying TxDOT of the surveyor's intent to submit a proposal will be accepted by fax at (903)813-0134, or hand/mailed delivered to TxDOT, Paris District, Sherman Area Office, 3711 Highway 75 South, Sherman, Texas 75090-0517. Letters of Interest will be received until 5:00 p.m. on Wednesday, June 19, 1996. The letter of interest must include the surveyor's firm name, address, telephone number, name of surveyor's contact person and refer to contract number 01-7XXP1001. Upon receipt of the letter of interest a Request for Proposal packet will be issued. (Note: Written requests, either by mail/hand delivery or fax, will be required to receive Request for Proposal packet. TxDOT will not issue Request for Proposal packet without receipt of letter of interest.)

Proposal Submittal Deadline: Proposals for contract number 01-7XXP1001 will be accepted until 5:00 p.m. on Friday, July 5, 1996 at the TxDOT, Paris District, Sherman Area Office mentioned address.

Agency Contact: Requests for additional information regarding this notice of invitation should be addressed to Bobby G. Littlefield, Jr., P.E., at (903) 892-6529 or fax (903) 813-0134.

Issued in Austin, Texas on June 3, 1996.

TRD-9607665  
Robert E. Shaddock  
General Counsel  
Texas Department of Transportation  
Filed: June 3, 1996



Texas Water Development Board

Request for Proposals for Flood Protection Planning

The Texas Water Development Board (Board) requests, pursuant to 31 Texas Administrative Code (TAC) §355.3, the submission of proposals leading to the possible award of contracts to develop flood protection plans for areas in Texas from political subdivisions with

the legal authority to plan for and abate flooding and which participate in the National Flood Insurance Program.

Flood protection planning applications may be submitted by eligible political subdivisions from any area of the State and will be considered and evaluated. In addition, applicants must supply a map of the geographical planning area to be studied.

Description of Planning Purpose and Objectives. The purpose of the flood protection planning grant program is for the State to assist local governments to develop flood protection plans for entire major or minor watersheds (as opposed to local drainage areas) that provide protection from flooding through structural and non-structural measures as described in 31 TAC §355.2. Planning for flood protection will include studies and analyses to determine and describe problems resulting from or relating to flooding and the views and needs of the affected public relating to flooding problems. Potential solutions to flooding problems will be identified, and the benefits and costs of these solutions will be estimated. From the planning analysis, feasible solutions to flooding problems will be recommended. Solutions for localized drainage problems are not eligible for grant funding.

Description of Funding Consideration. Up to \$600,000 has been initially authorized for FY 97 assistance for flood protection planning from the Board's research and planning fund. Up to 50 % funding may be provided to individual applicants, with up to 75% funding available to areas identified in 31 TAC §355.10(a) as economically disadvantaged. In the event that acceptable proposals are not submitted, the Board retains the right to not award contract funds.

Deadline, Review Criteria, and Contact Person for Additional Information. Ten double-sided copies of a complete flood protection planning grant application including the required attachments must be filed with the Board prior to 5:00 p.m., August 5, 1996. Proposals can be directed either in person to Ms. Phyllis Lightner-Gaynor, Room 447, Texas Water Development Board, Stephen F. Austin Building, 1700 North Congress Avenue, Austin, Texas or by mail to Ms. Phyllis Lightner-Gaynor, Texas Water Development Board, P.O. Box 13231, Austin, Texas 78711-3231.

Applications will be evaluated according to 31 TAC §355.5. All potential applicants must contact the Board to obtain these rules and an application instruction sheet. Requests for information, the Board's rules and instruction sheet covering the research and planning fund may be directed to Ms. Phyllis Lightner-Gaynor at the preceding address or by calling (512) 463-3154.

Issued in Austin, Texas, on May 29, 1996.

TRD—9607476  
Craig D. Pedersen  
General Counsel  
Texas Water Development Board  
Filed: May 29, 1996



Texas Workforce Commission

Wagner-Peyser Funding Allocation for Employment Service Activities

The Wagner-Peyser Act establishes a formula for distributing funds to states for employment service activities. With this formula, Texas will receive \$50,227,143.00 for Program Year 1996, beginning July

1, 1996 and ending June 30, 1997. Ninety percent of this amount must be used for basic labor exchange services under section 7(a) of the Wagner-Peyser Act; ten percent will be reserved for use at the Governor's discretion within legislatively designated parameters under §7(b).

Texas Labor Code, Title 4, Subtitle B, designates the Texas Workforce Commission as the state agency to administer activities funded by the Wagner-Peyser Act. The state herein presents the method and schedule proposed for distributing resources under §7(a) of the Wagner-Peyser Act.

The allotment received at the state level is divided in accordance with House Bill 1863 (Chapter 655, Seventy-Fourth Legislature, Regular Session): 20% for state level operations, and 80% for local operations. The funds for local operations are distributed to Local Workforce Development Areas based on the Federal allocation formula using two factors. Two-thirds (2/3) is allocated on the basis of the relative number of individuals in the civilian labor force residing in the area as compared to the total number of individuals in the civilian labor force in the state. One-third (1/3) is allocated on the

basis of the relative number of unemployed individuals residing in the area as compared to the total number of unemployed individuals in the state. A hold harmless provision ensures that no area receives less than 90% of their share of the previous allocation. Employment service budgets are developed by local cost centers in accordance with the amounts generated through the above described methodology.

Comments in regard to the distribution of the Wagner-Peyser funds should be submitted in writing to Krysten Stepke, Director of Workforce Development, Texas Workforce Commission, 101 East 15th Street, Room 658, Austin, Texas 78778-0001.

Issued in Austin, Texas on June 3, 1996.

TRD-9607666  
Esther Hajdar  
Director of Legal Services  
Texas Workforce Commission  
Filed: June 3, 1996

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